

HOUSE BILL No. 4363

February 19, 2009, Introduced by Rep. Rocca and referred to the Committee on Government Operations.

A bill to amend 1984 PA 431, entitled
"The management and budget act,"
by amending section 261 (MCL 18.1261), as amended by 2008 PA 133.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 261. (1) The department shall provide for the purchase
2 of, the contracting for, and the providing of supplies, materials,
3 services, insurance, utilities, third party financing, equipment,
4 printing, and all other items as needed by state agencies for which
5 the legislature has not otherwise expressly provided. In all
6 purchases made by the department, all other things being equal,
7 preference shall be given to products manufactured or services
8 offered by Michigan-based firms, if consistent with federal
9 statutes. **IF THE DEPARTMENT IS UNABLE TO PURCHASE PRODUCTS**

1 **MANUFACTURED IN OR SERVICES OFFERED BY MICHIGAN-BASED FIRMS, THEN,**
2 **ALL THINGS BEING EQUAL, PREFERENCE SHALL BE GIVEN TO PRODUCTS**
3 **MANUFACTURED OR SERVICES OFFERED BY UNITED STATES-BASED FIRMS, IF**
4 **CONSISTENT WITH FEDERAL STATUTES.** The department shall solicit
5 competitive bids from the private sector whenever practicable to
6 efficiently and effectively meet the state's needs. The department
7 shall first determine that competitive solicitation of bids in the
8 private sector is not appropriate before it shall use any other
9 procurement method for an acquisition.

10 (2) The department shall make all discretionary decisions
11 concerning the solicitation, award, amendment, cancellation, and
12 appeal of state contracts.

13 (3) The department shall utilize competitive solicitation for
14 all purchases authorized under this act unless 1 or more of the
15 following apply:

16 (a) Procurement of goods or services is necessary for the
17 imminent protection of public health or safety or to mitigate an
18 imminent threat to public health or safety, as determined by the
19 director or his or her designated representative.

20 (b) Procurement of goods or services is for emergency repair
21 or construction caused by unforeseen circumstances when the repair
22 or construction is necessary to protect life or property.

23 (c) Procurement of goods or services is in response to a
24 declared state of emergency or state of disaster under the
25 emergency management act, 1976 PA 390, MCL 30.401 to 30.421.

26 (d) Procurement of goods or services is in response to a
27 declared state of emergency under 1945 PA 302, MCL 10.31 to 10.33.

1 (e) Procurement of goods or services is in response to a
2 declared state of energy emergency under 1982 PA 191, MCL 10.81 to
3 10.89.

4 (f) Procurement of goods or services is within a state
5 agency's purchasing authority delegated under subsection (4), and
6 the state agency has established policies or procedures approved by
7 the department to ensure that goods or services are purchased by
8 the state agency at fair and reasonable prices.

9 (4) The department may delegate its procurement authority to
10 other state agencies within dollar limitations and for designated
11 types of procurements. The department may withdraw delegated
12 authority upon a finding that a state agency did not comply with
13 departmental procurement directives.

14 (5) The department may enter into lease purchases or
15 installment purchases for periods not exceeding the anticipated
16 useful life of the items purchased unless otherwise prohibited by
17 law.

18 (6) The department shall issue directives for the procurement,
19 receipt, inspection, and storage of supplies, materials, and
20 equipment, and for printing and services needed by state agencies.
21 The department shall provide standard specifications and standards
22 of performance applicable to purchases.

23 (7) The department may enter into a cooperative purchasing
24 agreement with 1 or more other states or public entities for the
25 purchase of goods, including, but not limited to, recycled goods,
26 and services necessary for state programs.

27 (8) In awarding a contract under this section, the department

1 shall give a preference of up to 10% of the amount of the contract
2 to a qualified disabled veteran. If the qualified disabled veteran
3 otherwise meets the requirements of the contract solicitation and
4 with the preference is the lowest bidder, the department shall
5 enter into a procurement contract with the qualified disabled
6 veteran under this act. If 2 or more qualified disabled veterans
7 are the lowest bidders on a contract, all other things being equal,
8 the qualified disabled veteran with the lowest bid shall be awarded
9 the contract under this act.

10 (9) It is the goal of the department to award each year not
11 less than 5% of its total expenditures for construction, goods, and
12 services to qualified disabled veterans. The department may count
13 toward its 5% yearly goal described in this subsection that portion
14 of all procurement contracts in which the business entity that
15 received the procurement contract subcontracts with a qualified
16 disabled veteran. Each year, the department shall report to each
17 house of the legislature on all of the following for the
18 immediately preceding 12-month period:

19 (a) The number of qualified disabled veterans who submitted a
20 bid for a state procurement contract.

21 (b) The number of qualified disabled veterans who entered into
22 procurement contracts with this state and the total value of those
23 procurement contracts.

24 (c) Whether the department achieved the goal described in this
25 subsection.

26 (d) The recommendations described in subsection (10).

27 (10) Each year, the department shall review the progress of

1 all state agencies in meeting the 5% goal with input from statewide
2 veterans service organizations and from the business community,
3 including businesses owned by qualified disabled veterans, and
4 shall make recommendations to each house of the legislature
5 regarding continuation, increases, or decreases in the percentage
6 goal. The recommendations shall be based upon the number of
7 businesses that are owned by qualified disabled veterans and on the
8 continued need to encourage and promote businesses owned by
9 qualified disabled veterans.

10 (11) To assist the department in reaching the goal described
11 in subsection (9), the governor shall recommend to the legislature
12 changes in programs to assist businesses owned by qualified
13 disabled veterans.

14 (12) As used in this section:

15 (a) "Qualified disabled veteran" means a business entity that
16 is 51% or more owned by 1 or more veterans with a service-connected
17 disability.

18 (b) "Service-connected disability" means a disability incurred
19 or aggravated in the line of duty in the active military, naval, or
20 air service as described in 38 USC 101(16).

21 (c) "Veteran" means a person who served in the army, air
22 force, navy, marine corps, or coast guard and who was discharged or
23 released from his or her service with an honorable or general
24 discharge.