

HOUSE BILL No. 4549

March 10, 2009, Introduced by Rep. Donigan and referred to the Committee on Commerce.

A bill to amend 1984 PA 431, entitled
"The management and budget act,"
(MCL 18.1101 to 18.1594) by adding section 262a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 262A. (1) BEGINNING OCTOBER 1, 2009, WHEN DETERMINING
2 UNDER THIS ACT WHETHER THE PURCHASE, CONTRACTING FOR, OR PROVIDING
3 OF SUPPLIES, MATERIALS, SERVICES, INSURANCE, UTILITIES, THIRD PARTY
4 FINANCING, EQUIPMENT, PRINTING, AND OTHER ITEMS NEEDED BY STATE
5 AGENCIES IS IN THE BEST INTERESTS OF THIS STATE, AND IN MAKING ALL
6 DISCRETIONARY DECISIONS CONCERNING THE SOLICITATION, AWARD,
7 AMENDMENT, CANCELLATION, OR APPEAL OF STATE CONTRACTS, THE
8 DEPARTMENT SHALL, IN ADDITION TO THE TOTAL OVERALL VALUE TO THIS
9 STATE, CONSIDER ALL OF THE FOLLOWING:

10 (A) WHETHER THE VENDOR HAS BEEN CONVICTED OF A CRIMINAL

1 OFFENSE INCIDENT TO THE APPLICATION FOR OR PERFORMANCE OF A STATE
2 CONTRACT OR SUBCONTRACT. AS USED IN THIS SUBDIVISION, VENDOR
3 INCLUDES AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, MANAGERIAL
4 EMPLOYEES, AND ANY PERSON WHO, DIRECTLY OR INDIRECTLY, HOLDS A
5 PECUNIARY INTEREST IN THAT BUSINESS ENTITY OF 20% OR MORE.

6 (B) WHETHER THE VENDOR HAS BEEN CONVICTED OF A CRIMINAL
7 OFFENSE, OR HELD LIABLE IN A CIVIL PROCEEDING, THAT NEGATIVELY
8 REFLECTS ON THE PERSON'S BUSINESS INTEGRITY, BASED ON A FINDING OF
9 EMBEZZLEMENT, THEFT, FORGERY, BRIBERY, FALSIFICATION OR DESTRUCTION
10 OF RECORDS, RECEIVING STOLEN PROPERTY, OR VIOLATION OF STATE OR
11 FEDERAL ANTITRUST STATUTES. AS USED IN THIS SUBDIVISION, VENDOR
12 INCLUDES AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, MANAGERIAL
13 EMPLOYEES, AND ANY PERSON WHO, DIRECTLY OR INDIRECTLY, HOLDS A
14 PECUNIARY INTEREST IN THAT BUSINESS ENTITY OF 20% OR MORE.

15 (C) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE SERVICES TO THIS
16 STATE USING EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, OR OTHER
17 INDIVIDUALS WHO ARE NOT CITIZENS OF THE UNITED STATES, LEGAL
18 RESIDENT ALIENS, OR INDIVIDUALS WITH A VALID VISA WOULD BE
19 DETRIMENTAL TO THIS STATE, ITS RESIDENTS, OR THIS STATE'S ECONOMY.

20 (D) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE SERVICES TO THIS
21 STATE FROM A LOCATION OUTSIDE OF THIS STATE OR THE UNITED STATES
22 WOULD BE DETRIMENTAL TO THIS STATE, ITS RESIDENTS, OR THIS STATE'S
23 ECONOMY.

24 (E) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE GOODS TO THIS
25 STATE PRODUCED OUTSIDE OF THIS STATE OR THE UNITED STATES WOULD BE
26 DETRIMENTAL TO THIS STATE, ITS RESIDENTS, OR THIS STATE'S ECONOMY.

27 (F) WHETHER THE ACQUISITION OF GOODS OR SERVICES FROM A VENDOR

1 THAT IS AN EXPATRIATED BUSINESS ENTITY LOCATED IN A TAX HAVEN
2 COUNTRY OR AN AFFILIATE OF AN EXPATRIATED BUSINESS ENTITY LOCATED
3 IN A TAX HAVEN COUNTRY WOULD BE DETRIMENTAL TO THIS STATE, ITS
4 RESIDENTS, OR THIS STATE'S ECONOMY.

5 (G) WHETHER THE PROVISION OF SERVICES TO THIS STATE AT A
6 LOCATION OUTSIDE OF THIS STATE OR THE UNITED STATES WOULD BE
7 DETRIMENTAL TO THE PRIVACY INTERESTS OF MICHIGAN RESIDENTS, OR RISK
8 THE DISCLOSURE OF PERSONAL INFORMATION OF MICHIGAN RESIDENTS, SUCH
9 AS SOCIAL SECURITY, FINANCIAL, OR MEDICAL DATA.

10 (H) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE SERVICES TO THIS
11 STATE FROM A LOCATION OUTSIDE OF THIS STATE OR THE UNITED STATES
12 WOULD CONSTITUTE UNDUE RISK UNDER A RISK MANAGEMENT POLICY,
13 PRACTICE, OR PROCEDURE ADOPTED BY THE DEPARTMENT UNDER SECTION 204.

14 (I) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE GOODS TO THIS
15 STATE PRODUCED OUTSIDE OF THIS STATE OR THE UNITED STATES WOULD
16 CONSTITUTE UNDUE RISK UNDER A RISK MANAGEMENT POLICY, PRACTICE, OR
17 PROCEDURE ADOPTED BY THE DEPARTMENT UNDER SECTION 204.

18 (2) WHEN DETERMINING UNDER THIS ACT WHETHER THE PURCHASE,
19 CONTRACTING FOR, OR PROVIDING OF SUPPLIES, MATERIALS, SERVICES,
20 INSURANCE, UTILITIES, THIRD PARTY FINANCING, EQUIPMENT, PRINTING,
21 AND OTHER ITEMS NEEDED BY STATE AGENCIES IS IN THE BEST INTERESTS
22 OF THIS STATE, AND IN MAKING ALL DISCRETIONARY DECISIONS CONCERNING
23 THE SOLICITATION, AWARD, AMENDMENT, CANCELLATION, OR APPEAL OF
24 STATE CONTRACTS, THE DEPARTMENT SHALL NEXT CONSIDER ALL OF THE
25 FOLLOWING:

26 (A) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE SERVICES TO THIS
27 STATE USING EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, OR OTHER

1 INDIVIDUALS WHO ARE NOT CITIZENS OF THE UNITED STATES, LEGAL
2 RESIDENT ALIENS, OR INDIVIDUALS WITH A VALID VISA WOULD BE
3 DETRIMENTAL TO THIS STATE OR ITS RESIDENTS BY NEGATIVELY IMPACTING
4 THE ECONOMY OF THE UNITED STATES.

5 (B) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE GOODS TO THIS
6 STATE PRODUCED OUTSIDE OF THIS STATE OR THE UNITED STATES WOULD BE
7 DETRIMENTAL TO THIS STATE OR ITS RESIDENTS BY NEGATIVELY IMPACTING
8 THE ECONOMY OF THE UNITED STATES.

9 (C) WHETHER THE ACQUISITION OF GOODS OR SERVICES FROM A VENDOR
10 THAT IS AN EXPATRIATED BUSINESS ENTITY LOCATED IN A TAX HAVEN
11 COUNTRY OR AN AFFILIATE OF AN EXPATRIATED BUSINESS ENTITY LOCATED
12 IN A TAX HAVEN COUNTRY WOULD BE DETRIMENTAL TO THIS STATE OR ITS
13 RESIDENTS BY NEGATIVELY IMPACTING THE ECONOMY OF THE UNITED STATES.

14 (3) TO ASSIST THE DEPARTMENT IN DETERMINING UNDER THIS ACT
15 WHETHER THE PURCHASE, CONTRACTING FOR, OR PROVIDING OF SUPPLIES,
16 MATERIALS, SERVICES, INSURANCE, UTILITIES, THIRD PARTY FINANCING,
17 EQUIPMENT, PRINTING, AND OTHER ITEMS NEEDED BY STATE DEPARTMENTS OR
18 AGENCIES IS IN THE BEST INTERESTS OF THIS STATE, AND IN MAKING ALL
19 DISCRETIONARY DECISIONS CONCERNING THE SOLICITATION, AWARD,
20 AMENDMENT, CANCELLATION, OR APPEAL OF STATE CONTRACTS, THE
21 DEPARTMENT MAY REQUIRE A VENDOR OR SUBCONTRACTOR TO PROVIDE 1 OR
22 MORE OF THE FOLLOWING:

23 (A) INFORMATION RELATING TO THE LOCATION OF WORK PERFORMED
24 UNDER A STATE CONTRACT BY THE VENDOR AND ANY SUBCONTRACTORS,
25 EMPLOYEES, OR OTHER PERSONS PERFORMING A STATE CONTRACT.

26 (B) INFORMATION REGARDING THE CORPORATE STRUCTURE AND LOCATION
27 OF CORPORATE EMPLOYEES AND ACTIVITIES OF THE VENDOR, ITS

1 AFFILIATES, OR ANY SUBCONTRACTORS.

2 (C) NOTICE OF THE RELOCATION OF THE VENDOR, EMPLOYEES OF THE
3 VENDOR, SUBCONTRACTORS OF THE VENDOR, OR OTHER PERSONS PERFORMING
4 SERVICES UNDER A STATE CONTRACT OUTSIDE OF THIS STATE OR THE UNITED
5 STATES.

6 (D) FOR A VENDOR OR SUBCONTRACTOR PROVIDING CALL OR CONTACT
7 CENTER SERVICES TO THIS STATE, DISCLOSE TO INBOUND CALLERS THE
8 LOCATION FROM WHICH THE CALL OR CONTACT CENTER SERVICES ARE BEING
9 PROVIDED.

10 (E) A WRITTEN AFFIRMATION THAT THE VENDOR OR SUBCONTRACTOR
11 WILL NOT USE STATE FUNDS OR THE PROCEEDS OF A STATE CONTRACT TO
12 INDUCE A BUSINESS ENTERPRISE TO LEAVE THIS STATE.

13 (F) A WRITTEN AFFIRMATION THAT THE VENDOR OR SUBCONTRACTOR
14 WILL NOT ENGAGE IN ACTIVITIES THAT CONTRIBUTE TO THE VIOLATION OF
15 INTERNATIONALLY RECOGNIZED WORKERS' RIGHTS, AS DEFINED IN SECTION
16 507(4) OF THE TRADE ACT OF 1974, 19 USC 2467(4), OF WORKERS IN A
17 COUNTRY OTHER THAN THE UNITED STATES, INCLUDING ANY DESIGNATED ZONE
18 OR AREA IN THAT COUNTRY.

19 (4) AS USED IN THIS SECTION:

20 (A) "EXPATRIATED BUSINESS ENTITY" MEANS A CORPORATION OR AN
21 AFFILIATE OF THE CORPORATION INCORPORATED IN A TAX HAVEN COUNTRY
22 AFTER SEPTEMBER 11, 2001, BUT WITH THE UNITED STATES AS THE
23 PRINCIPAL MARKET FOR THE PUBLIC TRADING OF THE CORPORATION'S STOCK.

24 (B) "TAX HAVEN COUNTRY" INCLUDES, BUT IS NOT LIMITED TO, EACH
25 OF THE FOLLOWING: BARBADOS, BERMUDA, BRITISH VIRGIN ISLANDS, CAYMAN
26 ISLANDS, COMMONWEALTH OF THE BAHAMAS, CYPRUS, GIBRALTAR, ISLE OF
27 MAN, THE PRINCIPALITY OF LIECHTENSTEIN, THE PRINCIPALITY OF MONACO,

1 AND THE REPUBLIC OF THE SEYCHELLES.