

## BID SPECIFICATIONS FOR CONSTRUCTION CONTRACTS WITH CERTAIN PUBLIC AGENCIES

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House Bill 4694

Sponsor: Rep. Tom McMillin

Committee: Commerce

Complete to 6-13-11

### A SUMMARY OF HOUSE BILL 4694 AS INTRODUCED 5-31-11

House Bill 4694 would amend Public Act 524 of 1980 to prevent a public agency from entering into a construction contract unless the contract contains *bid specifications* that meet the following requirements.

- The bid specifications must be written by an architect or professional engineer, designer, or draftsman that provides design services or writes specifications, directly or indirectly, for the materials to be used in performing the construction contract. The person who writes the bid specifications could not be an employee or representative of a manufacturer of any material to be used during the construction contract.
- The bid specifications must specify performance standards for the materials to be used. If it is impossible or impractical to specify performance standards, the bid specifications must specify three or more examples of materials that establish a range for an acceptable material of similar or equivalent performance characteristics. The materials must be produced by different manufacturers whose ownership is completely independent of each other. If three or more materials are not available then as many materials meeting these requirements as are available must be specified.
- The bid specification says bids do not require the specified manufacturer of a material, which is listed only to denote the performance standard for the material, and that equivalent materials are acceptable. A bid specification may designate 1 or more preferred manufacturers if the specification also identifies the performance standards that support the preference. Material that meets the performance standard specified for the designated, preferred manufacturer is considered equivalent.

"Public Agency" as defined in the bill does **not** include the Michigan Department of Transportation, a school district, junior or community college the Michigan State Housing Development Authority, or a municipal electric utility or agency.

[Note: House Bill 4695 would impose similar requirements on contracts for public school construction contracts.]

MCL 125.1562

## **FISCAL IMPACT:**

Reportedly, the bill applies to situations in which the bid specifications for a construction project specify that the equipment or building components or materials used in the project meet certain performance criteria, or name a specific brand or model to be used. These kinds of specifications are thought to restrict the availability of equipment and materials that can be used in the project and may restrict the pool of available suppliers and manufacturers that may bid on a project. The bill would tend to reduce construction costs to the extent that the bill broadens the scope of materials and equipment that can be used in a project and, relatedly, the number of suppliers and manufacturers that may bid or compete on a project.

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