

HOUSE BILL No. 4769

June 15, 2017, Introduced by Rep. Marino and referred to the Committee on Appropriations.

A bill to amend 1984 PA 431, entitled
"The management and budget act,"
(MCL 18.1101 to 18.1594) by adding section 266.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 266. (1) THE DEPARTMENT SHALL DEVELOP A PROTEST PROCESS**
2 **FOR AN UNSUCCESSFUL BIDDER TO PROTEST AN AWARD DECISION UNDER THIS**
3 **ACT.**

4 **(2) THE PROTEST PROCESS DEVELOPED BY THE DEPARTMENT SHALL BE**
5 **CLEARLY STATED ON THE DEPARTMENT'S WEBSITE AND REFERRED TO IN ALL**
6 **REQUESTS FOR PROPOSALS ISSUED BY THE DEPARTMENT.**

7 **(3) THE PROTEST PROCESS DEVELOPED BY THE DEPARTMENT SHALL**
8 **INCLUDE ALL THE FOLLOWING:**

9 **(A) THE TIME AND MANNER IN WHICH THE UNSUCCESSFUL BIDDER MUST**
10 **FILE THE PROTEST.**

11 **(B) THE SPECIFIC INFORMATION THAT MUST BE INCLUDED IN THE**

1 PROTEST.

2 (C) THE SPECIFIC STATUTE, PROCUREMENT POLICY, OR SOLICITATION
3 INSTRUCTION THAT WAS VIOLATED IN THE AWARD DECISION.

4 (D) IF THE PROTEST PROCESS PROVIDES FOR A PROTEST PERIOD
5 EXTENSION, THEN OBTAINING INFORMATION UNDER THE FREEDOM OF
6 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246, IS NOT A VALID
7 REASON FOR A PROTEST PERIOD EXTENSION.

8 (4) THE FOLLOWING ACTIONS OF A BIDDER DO NOT CONSTITUTE A
9 VALID REASON FOR PROTESTING AN AWARD:

10 (A) FAILURE OF A BIDDER TO PROPERLY FOLLOW SOLICITATION
11 SUBMISSION INSTRUCTIONS.

12 (B) FAILURE OF A BIDDER TO SUBMIT THE BID TO THE DEPARTMENT BY
13 THE DUE DATE AND TIME.

14 (C) FAILURE OF A BIDDER TO PROVIDE MANDATORY SAMPLES,
15 DESCRIPTIVE LITERATURE, OR OTHER REQUIRED DOCUMENTS BY THE DATE AND
16 TIME SPECIFIED.

17 (D) FAILURE OF A BIDDER TO PROVIDE A REQUIRED DEPOSIT OR
18 PERFORMANCE BOND BY THE DATE AND TIME SPECIFIED.

19 (E) FAILURE OF A BIDDER TO SUBMIT A PROTEST WITHIN THE TIME
20 STIPULATED IN THE SOLICITATION REQUEST FOR PROPOSAL.

21 (5) THE CHIEF PROCUREMENT OFFICER OR HIS OR HER DESIGNEE SHALL
22 INVESTIGATE AND PROVIDE A WRITTEN RESPONSE TO THE PROTESTING PARTY
23 TO ALL PROTESTS THAT MEET THE REQUIREMENTS OF THIS SECTION. UNTIL
24 ISSUING A FINAL DECISION ON A TIMELY PROTEST, THE DEPARTMENT WILL
25 NOT FINALIZE AN AWARD OF A CONTRACT OR PURCHASE ORDER PURSUANT TO A
26 DISPUTED SOLICITATION. HOWEVER, IF THERE IS A THREAT TO PUBLIC
27 HEALTH, SAFETY, OR WELFARE, OR DANGER OF IMMEDIATE AND SUBSTANTIAL

1 HARM TO STATE PROPERTY FROM DELAY IN MAKING AN AWARD, THE CHIEF
2 PROCUREMENT OFFICER MAY PROCEED WITH AN AWARD AND DOCUMENT THE
3 JUSTIFICATION FOR THAT ACTION.