

Legislative Analysis



STATE AGENCY PROCUREMENT AUTHORITY

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House Bill 4831 (H-1) as reported from committee

Sponsor: Rep. Sarah L. Lightner

1st Committee: Oversight

2nd Committee: Ways and Means

Complete to 1-28-20

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 173 of 2020)

SUMMARY:

House Bill 4831 would amend the Management and Budget Act to require a state agency having delegated authority to enter contracts to procure certain goods and services to obtain written approval from the Department of Technology, Management, and Budget (DTMB) before exercising an option to continue a current procurement contract.

Under current law, DTMB is required to purchase, contract for, and provide supplies, materials, services, insurance, utilities, third-party financing, equipment, printing, and all other items needed by state agencies for which the legislature has not expressly provided otherwise. Unless specific conditions apply, DTMB must utilize competitive solicitation for all authorized purchases.

DTMB may also delegate its procurement authority to other state agencies within dollar limitations and for designated types of procurements and can withdraw the authorization if it finds that a state agency did not comply with departmental procurement directives. If a state agency has been delegated authority to procure goods or services by DTMB, and if that agency has established policies or procedures approved by DTMB to ensure that goods or services are purchased at fair and reasonable prices, the state agency does not have to utilize competitive solicitation.

House Bill 4831 would amend the act to specify that before a state agency that has procurement authority delegated by DTMB chooses to exercise an option under an existing procurement contract to continue that contract, the agency must obtain written approval from DTMB that doing so is in the best interest of the state.

MCL 18.1261

BRIEF DISCUSSION:

Current law allows state agencies other than DTMB to enter into certain contracts with vendors without using a competitive bid process. Typically, these are for smaller projects under a \$500,000 limit. Some contracts contain an option for the state agency to extend the contract an additional year or two after the initial contract period expires. However, it has been pointed out that DTMB does not currently have authority to weigh in on whether the option for extension of one of these types of contracts should be exercised.

The only change made by the bill to the procurement process would be to require a second set of eyes (Central Procurement) to review certain contracts before a state agency exercises an option to renew a contract for services for an additional period of time after the original term expires. Some feel that it would be in the best interest of the state, and its taxpayers, to require a state agency to have DTMB Central Procurement, the state's central purchasing office, review the existing contract before the option to extend the contract period is exercised. For example, Central Procurement could check to see if the vendor was doing business with any other state departments or agencies and if there were any issues with the vendor's performance. Moreover, Central Procurement may be in a better position, especially in the area of technology, to determine whether the vendor's service or product is still the best choice for the state. According to testimony offered by the department, approval to go ahead with extending a contract, or a denial, could be issued within 48 hours of being asked to review the contract.

FISCAL IMPACT:

House Bill 4831 would have a minimal direct fiscal impact on DTMB and on state departments and agencies with delegated procurement authority. DTMB currently employs personnel to review and grant agency procurement requests. The responsibilities required of DTMB by the bill would not significantly increase the workload of these positions. DTMB already reviews agencies' spending for possible consolidation opportunities; however, the bill could lead to potential cost savings if DTMB determines that a continuation of a contract would not be cost-effective for the state.

The bill would have no fiscal impact on local units of government.

POSITIONS:

A representative of the Department of Technology, Management, and Budget testified in support of the bill. (1-16-20)

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