

**SUBSTITUTE FOR
HOUSE BILL NO. 4954**

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**



1 file the protest.

2 (b) The specific information that must be included in the
3 protest.

4 (c) The specific statute, procurement policy, or solicitation
5 instruction that was violated in the award decision.

6 (d) If the protest process provides for a protest period
7 extension, then obtaining information under the freedom of
8 information act, 1976 PA 442, MCL 15.231 to 15.246, is not a valid
9 reason for a protest period extension.

10 (4) The following circumstances do not constitute a valid
11 reason for protesting an award and any protest based on these
12 circumstances may be rejected without further investigation:

13 (a) Failure of a bidder to properly follow solicitation
14 submission instructions.

15 (b) Failure of a bidder to properly and completely submit a
16 solicitation response to the department by the due date and time.

17 (c) Failure of a bidder to provide mandatory samples,
18 descriptive literature, or other required documents by the date and
19 time specified.

20 (d) Failure of a bidder to provide a required deposit or
21 performance bond by the date and time specified.

22 (e) Failure of a bidder to submit a protest within the time
23 stipulated in the solicitation.

24 (f) Failure of the bidder to properly use the submission
25 method, including electronic systems, specified in the solicitation
26 submission instructions.

27 (5) The list described in subsection (4) of nonvalid reasons
28 for a protest is not meant to be an exclusive list of reasons a
29 protest may be denied. The chief procurement officer or his or her



1 designee may deny a protest for other reasons established in
2 policy.

3 (6) The chief procurement officer or his or her designee shall
4 investigate and provide a written response to the protesting party
5 to all protests that meet the requirements of this section. Until
6 issuing a final decision on a timely protest, the department will
7 not finalize an award of a contract or purchase order pursuant to a
8 disputed solicitation. However, if there is a threat to public
9 health, safety, or welfare, or danger of immediate and substantial
10 harm to state property from delay in making an award, the chief
11 procurement officer may proceed with an award and document the
12 justification for that action.