

PROCEDURE FOR SELECTION OF CONSTRUCTION PROFESSIONALS



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FISCAL ANALYSIS

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HOUSE BILL 5883 As Introduced

Sponsor: Rep. David C. Mead

House Committee: Commerce

FLOOR ANALYSIS - 5/2/02

Analyst(s): Robin Risko

SUMMARY

House Bill 5883 would amend the Management and Budget Act, 1984 PA 431, by adding a section which would revise the current procedure for selection and employment of architects, professional engineers, construction managers, and other design or construction professional services contractors.

The bill would require the selection of architects, professional engineers, professional surveyors, and qualified firms to be based 100% on the appropriate qualifications for the type of service required. Currently, the selection is based 80% on the appropriate qualifications and 20% on costs. The Department of Management and Budget would be required to select at least three bidders who they determine to be the most qualified and then rank those bidders in order of qualifications. If the Department is unable to negotiate a satisfactory contract with the bidder who is determined to be the most qualified, negotiations with that bidder would be terminated, and negotiations with the next most qualified bidder would begin. If the Department is unable to negotiate a satisfactory contract with any of the three selected as most qualified, the Department would be required to reevaluate the services requested and then proceed to determine the next most qualified bidder.

House Bill 5883 would result in increased costs to the state. Additional costs would occur, as the revisions to the procedures require the Department to negotiate with all bidders. Currently, DMB may automatically award the bid to the second ranked professional/firm if they are unable to negotiate a satisfactory contract with the first ranked professional/firm. The requirement to select construction professionals based 100% on appropriate qualifications may result in selection of professionals/firms with much higher costs. Currently, the Department is authorized to reject proposals based on non-responses to criteria. Selection based 100% on appropriate qualifications would prohibit rejection based on non-responses. In turn, the Department would be forced to negotiate with professionals/firms it would otherwise not negotiate with. The negotiation process, if continually delayed because of the inability to reach a satisfactorily negotiated contract, would result in increased costs to the state, as project start dates are delayed. Also, it is anticipated that this bill would result in the number of lawsuits against the state increasing. If negotiations are inconclusive with the first professional/firm selected, and the Department goes on to negotiate with other professionals/firms, then those professionals/firms negotiated with first could sue the state for what they determine to be not negotiating in good faith.