

HOUSE BILL No. 6334

August 9, 2006, Introduced by Reps. Donigan, Byrnes, Gonzales, Miller, Alma Smith, Hood, Tobocman, Kolb, Sheltroun, Hunter, Polidori, Espinoza, Mayes, Vagnozzi, Zelenko, Clack, Kathleen Law, Cushingberry, Plakas, Accavitti, Condino, Angerer, Bennett, Bieda, Leland, Lemmons, Jr., McDowell, Byrum, Gillard, Murphy, Meisner and Lemmons, III and referred to the Committee on Commerce.

A bill to amend 1984 PA 431, entitled
"The management and budget act,"
(MCL 18.1101 to 18.1594) by adding section 262a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 262A. (1) BEGINNING OCTOBER 1, 2006, WHEN DETERMINING
2 UNDER THIS ACT WHETHER THE PURCHASE, CONTRACTING FOR, OR PROVIDING
3 OF SUPPLIES, MATERIALS, SERVICES, INSURANCE, UTILITIES, THIRD PARTY
4 FINANCING, EQUIPMENT, PRINTING, AND OTHER ITEMS NEEDED BY STATE
5 AGENCIES IS IN THE BEST INTERESTS OF THIS STATE, AND IN MAKING ALL
6 DISCRETIONARY DECISIONS CONCERNING THE SOLICITATION, AWARD,
7 AMENDMENT, CANCELLATION, OR APPEAL OF STATE CONTRACTS, THE
8 DEPARTMENT SHALL, IN ADDITION TO THE TOTAL OVERALL VALUE TO THIS
9 STATE, CONSIDER ALL OF THE FOLLOWING:

1 (A) WHETHER THE VENDOR HAS BEEN CONVICTED OF A CRIMINAL
2 OFFENSE INCIDENT TO THE APPLICATION FOR OR PERFORMANCE OF A STATE
3 CONTRACT OR SUBCONTRACT. AS USED IN THIS SUBDIVISION, VENDOR
4 INCLUDES AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, MANAGERIAL
5 EMPLOYEES, AND ANY PERSON WHO, DIRECTLY OR INDIRECTLY, HOLDS A
6 PECUNIARY INTEREST IN THAT BUSINESS ENTITY OF 20% OR MORE.

7 (B) WHETHER THE VENDOR HAS BEEN CONVICTED OF A CRIMINAL
8 OFFENSE, OR HELD LIABLE IN A CIVIL PROCEEDING, THAT NEGATIVELY
9 REFLECTS ON THE PERSON'S BUSINESS INTEGRITY, BASED ON A FINDING OF
10 EMBEZZLEMENT, THEFT, FORGERY, BRIBERY, FALSIFICATION OR DESTRUCTION
11 OF RECORDS, RECEIVING STOLEN PROPERTY, OR VIOLATION OF STATE OR
12 FEDERAL ANTITRUST STATUTES. AS USED IN THIS SUBDIVISION, VENDOR
13 INCLUDES AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, MANAGERIAL
14 EMPLOYEES, AND ANY PERSON WHO, DIRECTLY OR INDIRECTLY, HOLDS A
15 PECUNIARY INTEREST IN THAT BUSINESS ENTITY OF 20% OR MORE.

16 (C) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE SERVICES TO THIS
17 STATE USING EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, OR OTHER
18 INDIVIDUALS WHO ARE NOT CITIZENS OF THE UNITED STATES, LEGAL
19 RESIDENT ALIENS, OR INDIVIDUALS WITH A VALID VISA WOULD BE
20 DETRIMENTAL TO THIS STATE, ITS RESIDENTS, OR THIS STATE'S ECONOMY.

21 (D) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE SERVICES TO THIS
22 STATE FROM A LOCATION OUTSIDE OF THIS STATE OR THE UNITED STATES
23 WOULD BE DETRIMENTAL TO THIS STATE, ITS RESIDENTS, OR THIS STATE'S
24 ECONOMY.

25 (E) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE GOODS TO THIS
26 STATE PRODUCED OUTSIDE OF THIS STATE OR THE UNITED STATES WOULD BE
27 DETRIMENTAL TO THIS STATE, ITS RESIDENTS, OR THIS STATE'S ECONOMY.

1 (F) WHETHER THE ACQUISITION OF GOODS OR SERVICES FROM A VENDOR
2 THAT IS AN EXPATRIATED BUSINESS ENTITY LOCATED IN A TAX HAVEN
3 COUNTRY OR AN AFFILIATE OF AN EXPATRIATED BUSINESS ENTITY LOCATED
4 IN A TAX HAVEN COUNTRY WOULD BE DETRIMENTAL TO THIS STATE, ITS
5 RESIDENTS, OR THIS STATE'S ECONOMY.

6 (G) WHETHER THE PROVISION OF SERVICES TO THIS STATE AT A
7 LOCATION OUTSIDE OF THIS STATE OR THE UNITED STATES WOULD BE
8 DETRIMENTAL TO THE PRIVACY INTERESTS OF MICHIGAN RESIDENTS, OR RISK
9 THE DISCLOSURE OF PERSONAL INFORMATION OF MICHIGAN RESIDENTS, SUCH
10 AS SOCIAL SECURITY, FINANCIAL, OR MEDICAL DATA.

11 (H) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE SERVICES TO THIS
12 STATE FROM A LOCATION OUTSIDE OF THIS STATE OR THE UNITED STATES
13 WOULD CONSTITUTE UNDUE RISK UNDER A RISK MANAGEMENT POLICY,
14 PRACTICE, OR PROCEDURE ADOPTED BY THE DEPARTMENT UNDER SECTION 204.

15 (I) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE GOODS TO THIS
16 STATE PRODUCED OUTSIDE OF THIS STATE OR THE UNITED STATES WOULD
17 CONSTITUTE UNDUE RISK UNDER A RISK MANAGEMENT POLICY, PRACTICE, OR
18 PROCEDURE ADOPTED BY THE DEPARTMENT UNDER SECTION 204.

19 (2) WHEN DETERMINING UNDER THIS ACT WHETHER THE PURCHASE,
20 CONTRACTING FOR, OR PROVIDING OF SUPPLIES, MATERIALS, SERVICES,
21 INSURANCE, UTILITIES, THIRD PARTY FINANCING, EQUIPMENT, PRINTING,
22 AND OTHER ITEMS NEEDED BY STATE AGENCIES IS IN THE BEST INTERESTS
23 OF THIS STATE, AND IN MAKING ALL DISCRETIONARY DECISIONS CONCERNING
24 THE SOLICITATION, AWARD, AMENDMENT, CANCELLATION, OR APPEAL OF
25 STATE CONTRACTS, THE DEPARTMENT SHALL NEXT CONSIDER ALL OF THE
26 FOLLOWING:

27 (A) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE SERVICES TO THIS

1 STATE USING EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, OR OTHER
2 INDIVIDUALS WHO ARE NOT CITIZENS OF THE UNITED STATES, LEGAL
3 RESIDENT ALIENS, OR INDIVIDUALS WITH A VALID VISA WOULD BE
4 DETRIMENTAL TO THIS STATE OR ITS RESIDENTS BY NEGATIVELY IMPACTING
5 THE ECONOMY OF THE UNITED STATES.

6 (B) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE GOODS TO THIS
7 STATE PRODUCED OUTSIDE OF THIS STATE OR THE UNITED STATES WOULD BE
8 DETRIMENTAL TO THIS STATE OR ITS RESIDENTS BY NEGATIVELY IMPACTING
9 THE ECONOMY OF THE UNITED STATES.

10 (C) WHETHER THE ACQUISITION OF GOODS OR SERVICES FROM A VENDOR
11 THAT IS AN EXPATRIATED BUSINESS ENTITY LOCATED IN A TAX HAVEN
12 COUNTRY OR AN AFFILIATE OF AN EXPATRIATED BUSINESS ENTITY LOCATED
13 IN A TAX HAVEN COUNTRY WOULD BE DETRIMENTAL TO THIS STATE OR ITS
14 RESIDENTS BY NEGATIVELY IMPACTING THE ECONOMY OF THE UNITED STATES.

15 (3) TO ASSIST THE DEPARTMENT IN DETERMINING UNDER THIS ACT
16 WHETHER THE PURCHASE, CONTRACTING FOR, OR PROVIDING OF SUPPLIES,
17 MATERIALS, SERVICES, INSURANCE, UTILITIES, THIRD PARTY FINANCING,
18 EQUIPMENT, PRINTING, AND OTHER ITEMS NEEDED BY STATE DEPARTMENTS OR
19 AGENCIES IS IN THE BEST INTERESTS OF THIS STATE, AND IN MAKING ALL
20 DISCRETIONARY DECISIONS CONCERNING THE SOLICITATION, AWARD,
21 AMENDMENT, CANCELLATION, OR APPEAL OF STATE CONTRACTS, THE
22 DEPARTMENT MAY REQUIRE A VENDOR OR SUBCONTRACTOR TO PROVIDE 1 OR
23 MORE OF THE FOLLOWING:

24 (A) INFORMATION RELATING TO THE LOCATION OF WORK PERFORMED
25 UNDER A STATE CONTRACT BY THE VENDOR AND ANY SUBCONTRACTORS,
26 EMPLOYEES, OR OTHER PERSONS PERFORMING A STATE CONTRACT.

27 (B) INFORMATION REGARDING THE CORPORATE STRUCTURE AND LOCATION

1 OF CORPORATE EMPLOYEES AND ACTIVITIES OF THE VENDOR, ITS
2 AFFILIATES, OR ANY SUBCONTRACTORS.

3 (C) NOTICE OF THE RELOCATION OF THE VENDOR, EMPLOYEES OF THE
4 VENDOR, SUBCONTRACTORS OF THE VENDOR, OR OTHER PERSONS PERFORMING
5 SERVICES UNDER A STATE CONTRACT OUTSIDE OF THIS STATE OR THE UNITED
6 STATES.

7 (D) FOR A VENDOR OR SUBCONTRACTOR PROVIDING CALL OR CONTACT
8 CENTER SERVICES TO THIS STATE, DISCLOSE TO INBOUND CALLERS THE
9 LOCATION FROM WHICH THE CALL OR CONTACT CENTER SERVICES ARE BEING
10 PROVIDED.

11 (E) A WRITTEN AFFIRMATION THAT THE VENDOR OR SUBCONTRACTOR
12 WILL NOT USE STATE FUNDS OR THE PROCEEDS OF A STATE CONTRACT TO
13 INDUCE A BUSINESS ENTERPRISE TO LEAVE THIS STATE.

14 (F) A WRITTEN AFFIRMATION THAT THE VENDOR OR SUBCONTRACTOR
15 WILL NOT ENGAGE IN ACTIVITIES THAT CONTRIBUTE TO THE VIOLATION OF
16 INTERNATIONALLY RECOGNIZED WORKERS' RIGHTS, AS DEFINED IN SECTION
17 507(4) OF THE TRADE ACT OF 1974, 19 USC 2467(4), OF WORKERS IN A
18 COUNTRY OTHER THAN THE UNITED STATES, INCLUDING ANY DESIGNATED ZONE
19 OR AREA IN THAT COUNTRY.

20 (4) AS USED IN THIS SECTION:

21 (A) "EXPATRIATED BUSINESS ENTITY" MEANS A CORPORATION OR AN
22 AFFILIATE OF THE CORPORATION INCORPORATED IN A TAX HAVEN COUNTRY
23 AFTER SEPTEMBER 11, 2001, BUT WITH THE UNITED STATES AS THE
24 PRINCIPAL MARKET FOR THE PUBLIC TRADING OF THE CORPORATION'S STOCK.

25 (B) "TAX HAVEN COUNTRY" INCLUDES, BUT IS NOT LIMITED TO, EACH
26 OF THE FOLLOWING: BARBADOS, BERMUDA, BRITISH VIRGIN ISLANDS, CAYMAN
27 ISLANDS, COMMONWEALTH OF THE BAHAMAS, CYPRUS, GIBRALTAR, ISLE OF

1 MAN, THE PRINCIPALITY OF LIECHTENSTEIN, THE PRINCIPALITY OF MONACO,
2 AND THE REPUBLIC OF THE SEYCHELLES.