

HOUSE BILL No. 6018

March 25, 2010, Introduced by Rep. Valentine and referred to the Committee on Appropriations.

A bill to require local units of government to establish certain standards for certain contracts; and to prescribe the powers and duties of certain local governmental officers and entities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Local unit of government" means a county, city, village,
3 township, district, local authority, intergovernmental authority,
4 or intergovernmental entity.

5 (b) "Michigan-based business" means a business that would
6 qualify for a preference in a procurement contract with this state
7 as determined under section 268 of the management and budget act,
8 1984 PA 431, MCL 18.1268.

9 Sec. 2. The governing body of a local unit of government shall

1 adopt written policies governing the procurement of supplies,
2 materials, services, insurance, utilities, third-party financing,
3 equipment, and all other items or services needed by the local unit
4 of government. The policies shall be consistent with the
5 requirements of this act.

6 Sec. 3. Except as otherwise provided in this act, a local unit
7 of government shall use competitive solicitation for any
8 procurement with a value of \$50,000.00 or more and obtain approval
9 by the governing body of the local unit of government before
10 entering into a procurement contract unless 1 or more of the
11 following apply:

12 (a) Procurement of goods or services is necessary for the
13 imminent protection of public health or safety or to mitigate an
14 imminent threat to public health or safety, as determined by the
15 local unit of government.

16 (b) Procurement of goods or services is for emergency repair
17 or construction caused by unforeseen circumstances when the repair
18 or construction is necessary to protect life or property.

19 (c) Procurement of goods or services is in response to a
20 declared state of emergency or state of disaster under the
21 emergency management act, 1976 PA 390, MCL 30.401 to 30.421.

22 (d) Procurement of goods or services is in response to a
23 declared state of emergency under 1945 PA 302, MCL 10.31 to 10.33.

24 (e) Procurement of goods or services is in response to a
25 declared state of energy emergency under 1982 PA 191, MCL 10.81 to
26 10.89.

27 Sec. 4. A local unit of government shall solicit competitive

1 bids from the private sector whenever practicable to efficiently
2 and effectively meet the needs of the local unit of government. A
3 local unit of government shall first determine that competitive
4 solicitation of bids from the private sector is not appropriate
5 before it uses any other procurement method for an acquisition.
6 When competitive bids are not solicited by a local unit of
7 government, the procurement shall proceed consistently with
8 policies or procedures approved by the local unit of government to
9 assure that goods or services are purchased at fair and reasonable
10 prices to secure the best value for the local unit of government.

11 Sec. 5. A local unit of government shall not award a contract
12 for the construction, repair, remodeling, or demolition of a
13 facility unless the contract is let pursuant to a competitive
14 bidding procedure approved by the governing body of the local unit
15 of government. All of the following apply to a contract described
16 in this section:

17 (a) The governing body of the local unit of government shall
18 advertise for the bids required under this section by placing an
19 advertisement for bids at least once in a newspaper of general
20 circulation in the area where the building or addition is to be
21 constructed or where the repair or renovation of an existing
22 building is to take place and by posting an advertisement for bids
23 for at least 2 weeks on the department of management and budget
24 website on a page on the website maintained for this purpose.

25 (b) The advertisement for bids shall do all of the following:

26 (i) Specify the date and time by which all bids must be
27 received by the governing body of the local unit of government.

1 (ii) State that the governing body of the local unit of
2 government will not consider or accept a bid received by the
3 governing body after the date and time specified for bid
4 submission.

5 (iii) Identify the time, date, and place of a public meeting at
6 which the governing body of the local unit of government or its
7 designee will open and read aloud each bid received by the
8 governing body by the date and time specified in subparagraph (i).

9 (iv) State that the bid shall be accompanied by a sworn and
10 notarized statement disclosing any familial relationship that
11 exists between the owner or any employee of the bidder and any
12 member of the governing body of the local unit of government. The
13 governing body of a local unit of government shall not accept a bid
14 that does not include this sworn and notarized disclosure
15 statement.

16 (c) The governing body of the local unit of government shall
17 require each bidder for a contract under this section to file with
18 the governing body security in an amount not less than 1/20 of the
19 amount of the bid conditioned to secure the local unit of
20 government from loss or damage by reason of the withdrawal of the
21 bid or by the failure of the bidder to enter a contract for
22 performance, if the bid is accepted by the governing body of the
23 local unit of government.

24 (d) The governing body of the local unit of government shall
25 not open, consider, or accept a bid that the governing body
26 receives after the date and time specified for bid submission in
27 the advertisement for bids described in subdivision (b).

1 (e) At a public meeting identified in the advertisement for
2 bids described in subdivision (b), the governing body of the local
3 unit of government or its designee shall open and read aloud each
4 bid that the governing body received at or before the time and date
5 for bid submission specified in the advertisement for bids. The
6 governing body of the local unit of government may reject any or
7 all bids, and if all bids are rejected, shall readvertise in the
8 manner required by this section.

9 (f) This section does not apply to buildings, renovations, or
10 repairs costing less than \$50,000.00 or to repair work normally
11 performed by local unit of government employees.

12 (g) A local unit of government shall not enter into a cost
13 plus construction contract unless all of the following apply:

14 (i) The contract cost is less than \$50,000.00.

15 (ii) The contract is for emergency repair or construction
16 caused by unforeseen circumstances.

17 (iii) The repair or construction is necessary to protect life or
18 property.

19 (iv) The contract complies with any applicable contract
20 requirements of the department of civil rights.

21 Sec. 6. The selection of architects, professional engineers,
22 professional surveyors, and other providers of professional
23 services shall be made by a local unit of government in accordance
24 with competitive, qualifications-based selection processes and
25 procedures for the type of professional service required by the
26 local unit of government.

27 Sec. 7. All other things being equal, in all purchases made by

1 a local unit of government, preference shall be given to products
2 manufactured or services offered by a Michigan-based business, if
3 consistent with federal law. The department of treasury shall
4 disclose to a local unit of government verifying information
5 relating to a Michigan-based business as described in section
6 268(3) of the management and budget act, 1984 PA 431, MCL 18.1268.

7 Sec. 8. A local unit of government may enter into a
8 cooperative purchasing agreement or participate in a cooperative
9 purchasing program with 1 or more other local units of government,
10 other governmental entities in this state, or this state, for the
11 purchase of goods, including, but not limited to, recycled goods,
12 and services necessary for local unit of government programs.

13 Sec. 9. Consistent with the requirements of this act, a local
14 unit of government may enter into lease purchases or installment
15 purchases for periods not exceeding the anticipated useful life of
16 the items purchased unless otherwise prohibited by law.

17 Sec. 10. A local unit of government may limit a solicitation
18 to prequalified vendors to meet statutory or licensing requirements
19 applicable to the solicitation or when the time necessary to verify
20 vendor qualifications would jeopardize timely award of contracts.

21 Sec. 11. A local unit of government may debar a vendor from
22 participation in the procurement process and from contract award
23 upon notice and a finding that the vendor is not able to perform
24 responsibly, or that the vendor, or an officer or an owner of a 25%
25 or greater share of the vendor, has demonstrated a lack of
26 integrity that could jeopardize the interest of the local unit of
27 government if the local unit of government were to contract with

1 the vendor.