

PREQUALIFICATION OF STATE CONTRACTS

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House Bill 4967 (proposed substitute H-1)

Sponsor: Rep. Mike Mueller

Committee: Transportation

Complete to 2-24-20

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

SUMMARY:

House Bill 4967 would amend 1933 PA 170, which regulates bids and contracts on public work construction, to limit the application of the act's prequalification provisions.

Currently under the act, an officer or entity of state, county, city, village, or township government that is authorized to receive bids for construction, maintenance, or repair of public works may require that a person proposing to bid on that work submit a sworn statement at least ten days before bids are opened on a form and in a manner as required by that officer or entity. Proposed bidders' qualifications may be judged on the basis of their past performance, financial resources, and construction equipment and facilities. If a person is determined not to be a suitable bidder based on the sworn statement, the officer or entity must notify that person five days before bids are opened. If prequalification of bidders is necessary, bidders may be rated according to their experience, equipment, and resources, and be furnished with proposals, plans, and specifications for only that type and quantity of work as their qualifications as outlined above would warrant.

Under the bill, these prequalification provisions would not apply to contracts for seeding, sodding, landscaping, or signage associated with road or highway construction in Michigan. However, a contractor for a seeding, sodding, landscaping, or signage project could choose to apply for prequalification.

For other projects, if the amount of the project contract was \$5.0 million or less, the prequalification provisions would apply only to **prime contractors**. If the project amount exceeded \$5.0 million, they would apply to prime contractors and all other contractors involved with the project.

Prime contractor would mean the entity that holds the contract with the state, county, city, village, or township for the project specified.

MCL 123.501 and 123.503

BACKGROUND:

1933 PA 170 is permissive; it authorizes, but does not require, a prequalification process for public works projects. The act authorizes the prequalification of bidders for construction, maintenance, or repair of the public works, except buildings. The act identifies criteria by which bidders can be prequalified or prevented from bidding,

including past performance, financial resources, and construction equipment and facilities. The Michigan Department of Transportation (MDOT) uses a prequalification process for insuring that contractors bidding on highway construction contracts have the experience and financial resources to complete the contract. MDOT's prequalification program is established under 1933 PA 170 and the Administrative Procedures Act, 1969 PA 306. MDOT administrative rules concerning the prequalification of contractors are found at R 247.1 et seq. in the Michigan Administrative Code.

FISCAL IMPACT:

It is not clear how the bill would affect MDOT's prequalification program or local agency contract prequalification programs. As a result, the fiscal impact of the bill cannot be readily determined at this time.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.