

SENATE BILL NO. 316

May 02, 2023, Introduced by Senators DAMOOSE, MCDONALD RIVET, MCCANN, POLEHANKI, SINGH, WOJNO, CAVANAGH, MCMORROW, BAYER, CHANG, SHINK, SANTANA, HERTEL and BELLINO and referred to the Committee on Regulatory Affairs.

A bill to amend 1984 PA 431, entitled "The management and budget act," by amending sections 115, 241, 305, and 404 (MCL 18.1115, 18.1241, 18.1305, and 18.1404), section 115 as amended by 2018 PA 389, section 241 as amended by 2012 PA 430, and sections 305 and 404 as amended by 1999 PA 8.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 115. ~~(1) "Institution of higher education" or~~
2 ~~"university" means a state supported 4 year college or university.~~
3 **(1)** ~~(2)~~ "Information technology services" means services

1 involving all aspects of managing and processing information,
2 including, but not limited to, all of the following:

3 (a) Application development and maintenance.

4 (b) Desktop computer support and management.

5 (c) Mainframe computer support and management.

6 (d) Server support and management.

7 (e) Local area network support and management, including, but
8 not limited to, wireless networking.

9 (f) Information technology project management.

10 (g) Information technology planning and budget management.

11 (h) Telecommunication services, security, infrastructure, and
12 support.

13 **(2) "Institution of higher education" or "university" means a**
14 **state-supported 4-year college or university.**

15 (3) "JCOS" means the joint capital outlay subcommittee of the
16 appropriations committees.

17 **(4) "Qualitative components" may include, but are not limited**
18 **to, all of the following:**

19 **(a) Technical design.**

20 **(b) Technical approach.**

21 **(c) Quality of proposed personnel.**

22 **(d) Management plans.**

23 **(5) ~~(4)~~—**Except as used in sections 284 to 292, "record" means
24 a public record, as **that term is** defined in section 2 of the
25 freedom of information act, 1976 PA 442, MCL 15.232.

26 **(6) "Responsive and responsible best value bidder" means a**
27 **bidder that meets all the following:**

28 **(a) A bidder that complies with all bid specifications and**
29 **requirements.**

1 (b) A bidder that has been determined by the department to be
2 responsible by the following criteria:

3 (i) The bidder's financial resources.

4 (ii) The bidder's technical capabilities.

5 (iii) The bidder's professional experience.

6 (iv) The bidder's past performance.

7 (v) The bidder's insurance and bonding capacity.

8 (vi) The bidder's business integrity.

9 (c) A bidder that has been selected by the department through
10 a selection process that evaluates the bid on both price and
11 qualitative components to determine what is the best value for this
12 state.

13 (7) ~~(5)~~—"State agency" means a department, board, commission,
14 office, agency, authority, or other unit of state government. State
15 agency does not include an institution of higher education or a
16 community college or, for purposes of article 2 or 3, the
17 legislative branch of government. For purposes of article 2 or 3,
18 except for those sections pertaining to the authorization,
19 planning, construction, and funding of a capital outlay project,
20 including construction of a facility to house offices or functions
21 necessary for operation of the judicial branch of government, state
22 agency does not include the judicial branch of government.

23 (8) ~~(6)~~—"Unit of local government" means a political
24 subdivision of this state, including school districts, community
25 college districts, intermediate school districts, cities, villages,
26 townships, counties, and authorities, if the political subdivision
27 has as its primary purpose the providing of local governmental
28 service for citizens in a geographically limited area of the state
29 and has the power to act primarily on behalf of that area.

1 Sec. 241. (1) Except for the contracts permitted in section
2 240, a contract ~~shall~~**must** not be awarded for the construction,
3 repair, remodeling, or demolition of a facility unless the contract
4 is let ~~pursuant to~~**in accordance with** a bidding procedure that is
5 approved by the board. The department shall issue directives
6 prescribing procedures to be used to implement this section. The
7 procedures ~~shall~~**must** require a competitive solicitation in the
8 award of any contract for construction, repair, remodeling, or
9 demolition of a facility.

10 (2) The department may award or approve the award, if the
11 board approves, of construction contracts to construct a project
12 for which the director is the agent and may expend, for the
13 purposes and in the manner set forth, the amounts appropriated. The
14 director is not the agent for a community college or institution of
15 higher education, but may act in that capacity upon the specific
16 request of a community college or institution of higher education.

17 (3) In awarding a contract under this section, the department
18 shall give a preference of up to 10% of the amount of the contract
19 to a qualified disabled veteran, as **that term is** defined in section
20 261. If the qualified disabled veteran otherwise meets the
21 requirements of the contract solicitation and with the preference
22 is the lowest bidder, the department ~~shall~~**must** enter into a
23 construction contract with the qualified disabled veteran under
24 this act. If 2 or more qualified disabled veterans are the lowest
25 bidders on a contract, all other things being equal, the qualified
26 disabled veteran with the lowest bid ~~shall~~**must** be awarded the
27 contract under this act.

28 (4) Subject to subsection (3), for projects funded in whole or
29 part with state funds, the construction contract award shall be

1 made to the responsive and responsible best value bidder. ~~As used~~
 2 ~~in this subsection, "responsive and responsible best value bidder"~~
 3 ~~means a bidder who meets all the following:~~

4 ~~(a) A bidder who complies with all bid specifications and~~
 5 ~~requirements.~~

6 ~~(b) A bidder who has been determined by the department to be~~
 7 ~~responsible by the following criteria:~~

8 ~~(i) The bidder's financial resources.~~

9 ~~(ii) The bidder's technical capabilities.~~

10 ~~(iii) The bidder's professional experience.~~

11 ~~(iv) The bidder's past performance.~~

12 ~~(v) The bidder's insurance and bonding capacity.~~

13 ~~(vi) The bidder's business integrity.~~

14 ~~(c) A bidder who has been selected by the department through a~~
 15 ~~selection process that evaluates the bid on both price and~~
 16 ~~qualitative components to determine what is the best value for this~~
 17 ~~state. Qualitative components may include, but are not limited to,~~
 18 ~~all of the following:~~

19 ~~(i) Technical design.~~

20 ~~(ii) Technical approach.~~

21 ~~(iii) Quality of proposed personnel.~~

22 ~~(iv) Management plans.~~

23 Sec. 305. (1) "Total state spending" means the sum of state
 24 operating fund expenditures, not including transfers between funds.

25 (2) "Total state spending from state sources" means the sum of
 26 state operating fund expenditures not including transfers between
 27 funds, federal aid, and restricted local and private sources of
 28 financing.

29 (3) "Transfer payments" means as defined by the ~~bureau~~ **Bureau**

1 of ~~economic analysis~~ **Economic Analysis** of the United States
 2 department ~~Department~~ of ~~commerce~~ **Commerce** or its successor.

3 ~~(4) "Unit of local government" means unit of local government~~
 4 ~~as defined in section 115(5).~~

5 Sec. 404. (1) "Revenues" means the increases in the net
 6 current assets of a fund other than from expenditure refunds and
 7 residual equity transfers.

8 (2) "Revolving fund" means a self-supporting fund which
 9 provides services or sells goods to state agencies, other
 10 governmental jurisdictions, or the public.

11 (3) "Unencumbered balance" means that portion of an
 12 appropriation not yet expended and encumbered.

13 (4) "Unexpended balance" means that portion of an
 14 appropriation not yet expended.

15 ~~(5) "Unit of local government" means unit of local government~~
 16 ~~as defined by section 115(5).~~

17 (5) ~~(6)~~ "Work project" means a 1-time nonrecurring undertaking
 18 for the purpose of accomplishing an objective contained in specific
 19 line-item appropriation for that purpose or any other specific
 20 line-item appropriation designated as a work project by law under
 21 criteria established under section 451a(1).

22 Enacting section 1. This amendatory act does not take effect
 23 unless Senate Bill No. 317 of the 102nd Legislature is enacted into
 24 law.