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BILL ANALYSIS

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Senate Bill 662 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Alan Sanborn
Committee: Economic Development, Small Business and Regulatory Reform

Date Completed: 11-17-05

RATIONALE

Earlier this year, in an effort to reduce State spending, the Governor issued an Executive Directive to prohibit the Department of Management and Budget (DMB) from awarding no-bid contracts for the procurement of goods and services. Executive Directive 2005-3 requires all DMB contracts for goods and services to be let on a competitive basis, with certain exceptions for emergencies or situations in which purchasing authority previously has been granted. Some people believe that the Executive Directive should be codified in the Management and Budget Act.

CONTENT

The bill would amend the Management and Budget Act to allow the Department of Management and Budget to use noncompetitive solicitation for the procurement of goods or services only for the imminent protection of public health or safety; in the event of certain emergencies or disasters; or when it was within a State agency's purchasing authority and the agency had established approved policies or procedures.

Under the Act, the DMB must provide for the purchase of, the contracting for, and the provision of supplies, materials, services, insurance, utilities, third party financing, equipment, printing, and all other items as needed by State agencies for which the Legislature has not otherwise expressly provided.

The DMB must use competitive bidding for all authorized purchases unless the Department has determined that another procurement method is in the State's best interests.

Under the bill, the Department would have to use competitive solicitation for all purchases authorized under the Act unless one or more of the following applied:

-- Procurement of goods or services was necessary for the imminent protection of public health or safety or to mitigate an imminent threat to public health or safety, as determined by the Director or his or her designated representative.
-- Procurement of goods or services was for emergency repair or construction caused by unforeseen circumstances when the repair or construction was necessary to protect life or property.
-- Procurement of goods or services was in response to a declared state of emergency or state of disaster under the Emergency Management Act.
-- Procurement of goods or services was in response to a declared state of emergency under Public Act 302 of 1945 (which establishes the emergency powers of the Governor).
-- Procurement of goods or services in response to a declared state of energy emergency under Public Act 191 of 1982 (which allows for the declaration of an energy emergency).
-- Procurement of goods or services was within a State agency's purchasing authority delegated under the Act and the State agency had established policies or procedures approved by the Department to ensure that the goods and services were purchased at fair and reasonable prices.

MCL 18.1261

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The State has faced consistent budget shortfalls over the past few years, yet, until two years ago, the DMB was awarding about 20% of its contracts on a sole-source basis. When contracts are let without competitive bidding on the open market, there is no guarantee that the State is paying the lowest price on goods and services. Since 2003, the director of acquisition services at the DMB has been trying to limit the number of no-bid and sole-source contracts the DMB lets. The change has resulted in approximately $156 million in savings to the State. By allowing the DMB to use no-bid contracts only in specified situations, the bill would ensure that the DMB continued using competition in the marketplace to get the lowest price for goods and services.

Legislative Analyst: J.P. Finet

FISCAL IMPACT

In FY 2004-05, the Office of Acquisition Services awarded 372 contracts valued at $1,672,774,749.59. Of the 372 contracts, 20 were sourced at a value of $3,662,931.92. No sole source contract has been awarded by the Office of Acquisition Services since the April 30, 2005, effective date of Executive Directive 2005-3.

Fiscal Analyst: Bill Bowerman

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