

# SENATE BILL No. 515

September 6, 2017, Introduced by Senator HERTEL and referred to the Committee on Elections and Government Reform.

A bill to amend 1984 PA 431, entitled  
"The management and budget act,"  
by amending section 261 (MCL 18.1261), as amended by 2017 PA 21.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 261. (1) The department shall provide for the purchase  
2 of, the contracting for, and the providing of supplies, materials,  
3 services, insurance, utilities, third party financing, equipment,  
4 printing, and all other items as needed by state agencies for which  
5 the legislature has not otherwise expressly provided. If consistent  
6 with federal ~~statutes~~, **LAW**, in all purchases made by the  
7 department, all other things being equal, **A preference OF 8% OF THE**  
8 **AMOUNT OF THE CONTRACT** shall be given to products manufactured or

1 services offered by Michigan-based firms or by facilities with  
2 respect to which the operator **OF A FACILITY THAT** is designated as a  
3 clean corporate citizen under part 14 of the natural resources and  
4 environmental protection act, 1994 PA 451, MCL 324.1401 to  
5 324.1429, or to biobased products whose content is sourced in this  
6 state. The department shall solicit competitive bids from the  
7 private sector whenever practicable to efficiently and effectively  
8 meet the state's needs. The department shall first determine that  
9 competitive solicitation of bids in the private sector is not  
10 appropriate before using any other procurement method for an  
11 acquisition.

12 (2) The department shall make all discretionary decisions  
13 concerning the solicitation, award, amendment, cancellation, and  
14 appeal of state contracts.

15 (3) The department shall utilize competitive solicitation for  
16 all purchases authorized under this act unless 1 or more of the  
17 following apply:

18 (a) Procurement of goods or services is necessary for the  
19 imminent protection of public health or safety or to mitigate an  
20 imminent threat to public health or safety, as determined by the  
21 director or his or her designated representative.

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

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

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

3 (e) Procurement of goods or services is in response to a  
4 declared state of energy emergency under 1982 PA 191, MCL 10.81 to  
5 10.89.

6 (f) Procurement of goods or services is within a state  
7 agency's purchasing authority delegated under subsection (4), and  
8 the state agency has established policies or procedures approved by  
9 the department to ensure that goods or services are purchased by  
10 the state agency at fair and reasonable prices.

11 (4) The department may delegate its procurement authority to  
12 other state agencies within dollar limitations and for designated  
13 types of procurements. The department may withdraw delegated  
14 authority upon a finding that a state agency did not comply with  
15 departmental procurement directives.

16 (5) The department may enter into lease purchases or  
17 installment purchases for periods not exceeding the anticipated  
18 useful life of the items purchased unless otherwise prohibited by  
19 law.

20 (6) The department shall issue directives for the procurement,  
21 receipt, inspection, and storage of supplies, materials, and  
22 equipment, and for printing and services needed by state agencies.  
23 The department shall provide standard specifications and standards  
24 of performance applicable to purchases.

25 (7) The department may enter into a cooperative purchasing  
26 agreement with 1 or more other states or public entities for the  
27 purchase of goods, including, but not limited to, recycled goods,

1 and services necessary for state programs.

2 (8) In awarding a contract under this section, the department  
3 shall give a preference of up to 10% of the amount of the contract  
4 to a qualified disabled veteran. If the qualified disabled veteran  
5 otherwise meets the requirements of the contract solicitation and  
6 with the preference is the lowest bidder, the department shall  
7 enter into a procurement contract with the qualified disabled  
8 veteran under this act. If 2 or more qualified disabled veterans  
9 are the lowest bidders on a contract, all other things being equal,  
10 the qualified disabled veteran with the lowest bid shall be awarded  
11 the contract under this act.

12 (9) It is the goal of the department to award each year not  
13 less than 5% of its total expenditures for construction, goods, and  
14 services to qualified disabled veterans. The department may count  
15 toward its 5% yearly goal described in this subsection that portion  
16 of all procurement contracts in which the business entity that  
17 received the procurement contract subcontracts with a qualified  
18 disabled veteran. Each year, the department shall report to each  
19 house of the legislature on all of the following for the  
20 immediately preceding 12-month period:

21 (a) The number of qualified disabled veterans who submitted a  
22 bid for a state procurement contract.

23 (b) The number of qualified disabled veterans who entered into  
24 procurement contracts with this state and the total value of those  
25 procurement contracts.

26 (c) Whether the department achieved the goal described in this  
27 subsection.

1 (d) The recommendations described in subsection (10).

2 (10) Each year, the department shall review the progress of  
3 all state agencies in meeting the 5% goal with input from statewide  
4 veterans service organizations and from the business community,  
5 including businesses owned by qualified disabled veterans, and  
6 shall make recommendations to each house of the legislature  
7 regarding continuation, increases, or decreases in the percentage  
8 goal. The recommendations shall be based upon the number of  
9 businesses that are owned by qualified disabled veterans and on the  
10 continued need to encourage and promote businesses owned by  
11 qualified disabled veterans.

12 (11) To assist the department in reaching the goal described  
13 in subsection (9), the governor shall recommend to the legislature  
14 changes in programs to assist businesses owned by qualified  
15 disabled veterans.

16 (12) Beginning October 1, 2017, the department and all state  
17 agencies may not enter into a contract with a person to acquire or  
18 dispose of supplies, services, or information technology unless the  
19 contract includes a representation that the person is not currently  
20 engaged in, and an agreement that the person will not engage in,  
21 the boycott of a person based in or doing business with a strategic  
22 partner.

23 (13) The following records are exempt from disclosure under  
24 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246,  
25 as provided in this subsection:

26 (a) A bid, quote, or proposal submitted in connection with the  
27 authority granted under this section, and records created in the

1 preparation for and evaluation of the bid, quote, or proposal until  
2 the time of final notification of award of the contract.

3 (b) Records containing a trade secret as defined under section  
4 2 of the uniform trade secrets act, 1998 PA 448, MCL 445.1902, or  
5 financial or proprietary information submitted in connection with  
6 the authority granted under this section.

7 (14) As used in this section:

8 (a) "Biobased product" means a product granted the United  
9 States Department of Agriculture certified biobased product label.

10 (b) "Boycott" means refusal to have dealings with, divest  
11 from, or otherwise engage with a person. Boycott does not include 1  
12 or more of the following:

13 (i) A decision based on bona fide business or economic  
14 reasons.

15 (ii) A boycott against a public entity of a foreign state when  
16 the boycott is applied in a nondiscriminatory manner.

17 (iii) Conduct necessary to comply with applicable law in the  
18 person's home jurisdiction.

19 (c) "Financial or proprietary information" means information  
20 that has not been publicly disseminated or which is unavailable  
21 from other sources, the release of which might cause the submitter  
22 of the information competitive harm.

23 (d) "Person" means any of the following:

24 (i) An individual, corporation, company, limited liability  
25 company, business association, partnership, society, trust, or any  
26 other nongovernmental entity, organization, or group.

27 (ii) Any governmental entity or agency of a government.

1           (iii) Any successor, subunit, parent company, or subsidiary  
2 of, or company under common ownership or control with, any entity  
3 described in subparagraph (i) or (ii).

4           (e) "Qualified disabled veteran" means a business entity that  
5 is 51% or more owned by 1 or more veterans with a service-connected  
6 disability.

7           (f) "Service-connected disability" means a disability incurred  
8 or aggravated in the line of duty in the active military, naval, or  
9 air service as described in 38 USC 101(16).

10          (g) "Strategic partner" means a strategic partner described in  
11 22 USC 8601 to 8606.

12          (h) "Veteran" means an individual who meets both of the  
13 following:

14           (i) Is a veteran as defined in section 1 of 1965 PA 190, MCL  
15 35.61.

16           (ii) Was released from his or her service with an honorable or  
17 general discharge.