

HOUSE BILL No. 4480

March 20, 2007, Introduced by Reps. Miller, Bennett, Kathleen Law and Polidori and referred to the Committee on Government Operations.

A bill to amend 1984 PA 431, entitled "The management and budget act," by amending section 264 (MCL 18.1264), as added by 1988 PA 504.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 264. (1) The department may debar a vendor from
2 ~~participation in the bid process and from contract award upon~~
3 ~~notice and a finding that the vendor is not able to perform~~
4 ~~responsibly, or that~~ **THE CONSIDERATION FOR THE AWARD OF A CONTRACT**
5 **FOR THE PROVISION OF GOODS OR SERVICES TO THIS STATE OR SUSPEND THE**
6 **PROCUREMENT OF GOODS AND SERVICES FROM A VENDOR IF, WITHIN THE**
7 **IMMEDIATELY PRECEDING 3 YEARS,** the vendor, ~~or~~ an officer **OF THE**
8 **VENDOR,** or an owner of a 25% or greater ~~share of~~ **INTEREST IN** the
9 vendor, ~~has demonstrated a lack of integrity that could jeopardize~~

1 ~~the state's interest if the state were to contract with the vendor.~~
2 HAS DONE 1 OR MORE OF THE FOLLOWING:

3 (A) HAS BEEN CONVICTED OF A CRIMINAL OFFENSE INCIDENT TO THE
4 APPLICATION FOR OR PERFORMANCE OF A STATE CONTRACT OR SUBCONTRACTS.

5 (B) HAS BEEN CONVICTED OF ANY OFFENSE WHICH NEGATIVELY
6 REFLECTS ON THE VENDOR'S BUSINESS INTEGRITY, INCLUDING, BUT NOT
7 LIMITED TO, EMBEZZLEMENT, THEFT, FORGERY, BRIBERY, FALSIFICATION OR
8 DESTRUCTION OF RECORDS, RECEIVING STOLEN PROPERTY, OR A VIOLATION
9 OF STATE OR FEDERAL ANTITRUST STATUTES.

10 (C) HAS BEEN CONVICTED OF ANY OTHER OFFENSE, OR VIOLATED ANY
11 OTHER STATE OR FEDERAL LAW, AS DETERMINED BY A COURT OF COMPETENT
12 JURISDICTION OR AN ADMINISTRATIVE PROCEEDING, WHICH, IN THE OPINION
13 OF THE DEPARTMENT, INDICATES THAT THE VENDOR IS UNABLE TO PERFORM
14 RESPONSIBLY OR WHICH REFLECTS A LACK OF INTEGRITY THAT COULD
15 NEGATIVELY IMPACT OR REFLECT UPON THIS STATE. AN OFFENSE OR
16 VIOLATION UNDER THIS SUBDIVISION MAY INCLUDE, BUT IS NOT LIMITED
17 TO, AN OFFENSE UNDER OR VIOLATION OF 1 OR MORE OF THE FOLLOWING:

18 (i) THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,
19 1994 PA 451, MCL 324.101 TO 324.90106.

20 (ii) THE MICHIGAN CONSUMER PROTECTION ACT, 1976 PA 331, MCL
21 445.901 TO 445.922.

22 (iii) 1965 PA 166, MCL 408.551 TO 408.558.

23 (iv) 1978 PA 390, MCL 408.471 TO 408.490.

24 (v) A WILLFUL OR PERSISTENT VIOLATION OF THE MICHIGAN
25 OCCUPATIONAL SAFETY AND HEALTH ACT, 1974 PA 154, MCL 408.1001 TO
26 408.1094.

27 (D) HAS FAILED TO SUBSTANTIALLY PERFORM A STATE CONTRACT OR

1 SUBCONTRACT ACCORDING TO ITS TERMS, CONDITIONS, AND SPECIFICATIONS
2 WITHIN SPECIFIED TIME LIMITS.

3 (E) HAS VIOLATED DEPARTMENT BID SOLICITATION PROCEDURES OR
4 VIOLATED THE TERMS OF A SOLICITATION AFTER BID SUBMISSION.

5 (F) HAS REFUSED TO PROVIDE INFORMATION OR DOCUMENTS REQUIRED
6 BY A CONTRACT, INCLUDING, BUT NOT LIMITED TO, INFORMATION OR
7 DOCUMENTS NECESSARY FOR MONITORING CONTRACT PERFORMANCE.

8 (G) HAS FAILED TO RESPOND TO REQUESTS FOR INFORMATION
9 REGARDING VENDOR PERFORMANCE, OR ACCUMULATED REPEATED SUBSTANTIATED
10 COMPLAINTS REGARDING PERFORMANCE OF A CONTRACT OR PURCHASE ORDER.

11 (H) HAS FAILED TO PERFORM A STATE CONTRACT OR SUBCONTRACT IN A
12 MANNER CONSISTENT WITH ANY APPLICABLE STATE OR FEDERAL LAW, RULE,
13 OR REGULATION.

14 (2) IF THE DEPARTMENT FINDS THAT GROUNDS TO DEBAR A VENDOR
15 EXIST, IT SHALL SEND THE VENDOR A NOTICE OF PROPOSED DEBARMENT
16 INDICATING THE GROUNDS AND THE PROCEDURE FOR REQUESTING A HEARING.
17 IF THE VENDOR DOES NOT RESPOND WITH A WRITTEN REQUEST FOR A HEARING
18 WITHIN 20 CALENDAR DAYS, THE DEPARTMENT SHALL ISSUE THE DECISION TO
19 DEBAR WITHOUT A HEARING. THE DEBARMENT PERIOD MAY BE OF ANY LENGTH,
20 UP TO 8 YEARS. AFTER THE DEBARMENT PERIOD EXPIRES, THE VENDOR MAY
21 REAPPLY FOR INCLUSION ON BIDDER LISTS THROUGH THE REGULAR
22 APPLICATION PROCESS.