

AUDITS OF SERVICE CONTRACTS AND GRANTS

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House Bill 5158 (Substitute H-1)
Sponsor: Rep. Anthony G. Forlini
Committee: Oversight, Reform, and Ethics

First Analysis (2-23-12)

BRIEF SUMMARY: The bill addresses procurement contracts entered into by state agencies and grants of state funds. It requires the contracts and grant agreements to allow the Department of Management and Budget to audit vendors who have entered into procurement practices and persons who have received a grant of state funds, and requires that under the contracts and agreements, the financial and accounting records associated with the contracts or grants will be made available to the department, its designees, and to the Legislative Auditor General upon request. The bill would apply as of January 1, 2013.

FISCAL IMPACT: House Bill 5158 would impose certain costs on state government. Under the provisions of the bill, the state would be allowed to conduct certain audits on those persons contracting or receiving grant money from the state of Michigan. Presumably, the department conducting the audit would cover the cost of conducting the audit. The overall fiscal impact would be a function of the number and complexity of audits conducted. Costs could include staff time in conducting an audit, travel, and other administrative costs. To the extent that funds could be recouped due to an audit finding, any costs would be offset and the state could realize a positive fiscal impact.

THE APPARENT PROBLEM:

The Office of the Auditor General, which reports to the Michigan Legislature, is established in the State Constitution. There, under Article IV, Section 53, it says that "the Auditor General shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof."

To that end, 131 people are employed in the Office of the Auditor General (a reduction from 178 FTEs in 2000), to enable certified public accountants to oversee government programs. See **Background Information**. In Fiscal Year 2010-11, the office audited 69 programs in more than 20 state agencies, including some in community colleges, corrections facilities, and the Legislature. In the current 2011-2012 fiscal year not yet completed, the Auditor General has issued 17 reports of programs in 11 state departments. The Office of the Auditor General reports known savings to Michigan taxpayers of \$24,367,476 from the fiscal year ended September 30, 2007, to the present; and estimates the projected savings at \$614,019,470.

In order to conduct program and financial oversight properly, auditors need access to (among other things) the contracts entered into, and the grants awarded, in order to obtain the services needed for taxpayers. The Auditor General reports that most state agencies make their grants available to the auditors, but not all. Legislation has been introduced to require all branches, departments, and agencies constituting state government to retain these records, and provide audit access.

THE CONTENT OF THE BILL:

The bill addresses procurement contracts entered into by state agencies and grants of state funds. It requires the contracts and grant agreements to allow the Department of Management and Budget to audit vendors who have entered into procurement practices and persons who have received a grant of state funds, and requires that under the contracts and agreements, the financial and accounting records associated with the contract or grant will be made available to the department, its designees, and to the Legislative Auditor General upon request. The bill would apply as of January 1, 2013. The bill amends the Management and Budget Act by adding a new Section 470 (MCL 18.1470)

Under the bill, beginning January 1, 2013, if a state agency entered into a ***procurement contract for service***, the contract would have to provide (1) that the DTMB (or its designees) could audit the vendor to verify compliance with the contract, and (2) that the financial and accounting records associated with the contract would have to be made available to the department, its designees, and the Auditor General upon request. The requirement would be in effect during the term of the contract, during any extension of the contract, and for three years after the later of the expiration date or final payment under the contract. The bill would also prohibit the department from auditing any matters outside the scope of the contract.

House Bill 5158 (H-1) also specifies that beginning January 1, 2013, any person who receives a ***grant of state funds*** must agree (1) to allow the department (or its designees) to audit the person to verify compliance with the terms of the grant, and (2) that the financial and accounting records associated with the grant would have to be made available to the department, its designees, and the Auditor General, upon request, during the term of the grant and during any extensions of the grant, and for three years after the later of the expiration date or the final payment under the grant. As with vendor service contracts, the bill would prohibit the department from auditing any matters outside the scope of the grant.

The term "Auditor General" means the Auditor General or a certified public accounting firm selected by the Auditor General.

BACKGROUND INFORMATION:

To learn more about Michigan's Office of Auditor General, and to read audit reports of state agencies, visit their website at <http://audgen.michigan.gov/>

ARGUMENTS:

For:

The mission of the Michigan Office of the Auditor General is to improve the accountability for public funds, and to improve the operations of state government for the benefit of the citizens of Michigan. In order to accomplish these tasks, the auditors must have access to all of the contracts that state agencies enter into with providers of services. Beginning January 1, 2013, this legislation would require all agencies in every department and branch of the state government to include language in their procurement contracts for services, as well as in their grants of state funds, that would provide the Department of Technology, Management, and Budget (or its designees) with the authority to audit the vendor, to verify compliance with the contract. The contracts and grant agreements would also have to specify that associated financial and accounting records are to be made available to the DTMB and the Legislative Auditor General on request, in case they are needed for an audit, during the term of contract or grant agreement, and for three years beyond. According to the Auditor General, many state departments and agencies already include this language in their contracts, but some do not. This bill would make the practice uniform and consistent across all of state government.

POSITIONS:

The Auditor General testified in favor of the bill. (2-7-12)

Legislative Analyst: J. Hunault
Fiscal Analyst: Ben Gielczyk

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