



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 5053 (Substitute S-1)
Sponsor: Representative Mark Huizenga
House Committee: Appropriations
Senate Committee: Appropriations

Date Completed: 9-1-20

CONTENT

The bill would amend the Management and Budget Act to require State agencies who opted to continue a procurement contract to get written approval from the Department of Technology, Management, and Budget (DTMB) before exercising that option. The bill also would add a requirement that the DTMB develop policies and procedures to require all procurement contracts to include performance-related liquidated damages or performance targets with incentives.

Currently, the DTMB delegates its procurement authority to other State agencies within dollar limitations and for designated types of procurement. The Department may withdraw that authority if it finds that a State agency did not comply with departmental procurement directives. The bill would amend the Act to specify that if a State agency that had been delegated procurement authority by DTMB chose to exercise an option under an existing procurement contract to continue that procurement contract, it first would have to obtain written approval from the DTMB that exercising the option was in the best interest of the State.

The bill also would require the Department to develop policies and procedures that required all procurement contracts entered into by the DTMB or a State agency, including departments that had delegated procurement authority under the Act, to include performance-related liquidated damages or performance targets with incentives.

Further, the Department would have to develop policies and procedures that required the Department or State agency to enforce these provisions. Departments or State agencies acting under delegated authority would have to inform the DTMB of relevant performance issues. Exceptions to the inclusion or enforcement of performance-related contract provisions could be granted only by the DTMB as provided in a written or electronic record by the Department.

MCL 18.1261

FISCAL IMPACT

The bill could have a minimal cost saving to the State associated with the proposed requirement to obtain written approval from the DTMB before exercising an option to continue a procurement contract. The Department currently employs staff to review and grant procurement requests and the proposed changes in the bill likely would not affect those costs

for the Department significantly. However, savings could be achieved if the DTMB determined that continuing or extending a contract were not in the best interest of the State.

The proposed requirement for all procurement contracts to include performance-related liquidated damages or performance targets with incentives would not create any additional costs for the DTMB as most contracts already contain these provisions.

The bill could create costs for State departments and agencies to monitor and enforce the performance-related provisions that would be required for all procurement contracts under the bill. Depending on a department's or agency's administrative resource capabilities and the volume of contracts it administers, additional FTEs could be required. The average total cost for salary, benefits, and retirement for a State civil servant is an estimated \$119,200 Gross, \$61,500 GF/GP.

Fiscal Analyst: Joe Carrasco, Jr.

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