

HOUSE BILL NO. 4956

September 12, 2019, Introduced by Rep. Marino and referred to the Committee on Commerce and Tourism.

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~~**shall** 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 vendor, or an officer or an owner of a 25%~~
5 ~~or greater share of the vendor, has demonstrated a lack of~~



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1 ~~integrity that could jeopardize the state's interest if the state~~
2 ~~were to contract with the vendor. the consideration for the award~~
3 of a contract for the provision of goods or services to this state
4 or suspend the procurement of goods and services from a vendor if,
5 within the past 3 years, the vendor, an officer of the vendor, or
6 an owner of a 25% or greater interest in the vendor has done 1 or
7 more of the following:

8 (a) Been convicted of a criminal offense incident to the
9 application for or performance of a state contract or subcontract.

10 (b) Been convicted of any offense which negatively reflects on
11 the vendor's business integrity, including, but not limited to,
12 embezzlement, theft, forgery, bribery, falsification or destruction
13 of records, receiving stolen property, or state or federal
14 antitrust statutes.

15 (c) Been convicted of any other offense, or violated any other
16 state or federal law, as determined by a court of competent
17 jurisdiction or an administrative proceeding, which, in the opinion
18 of the department, indicates that the vendor is unable to perform
19 responsibly or which reflects a lack of integrity that could
20 negatively impact or reflect upon this state. An offense or
21 violation under this subdivision may include, but is not limited
22 to, an offense under or violation of 1 or more of the following:

23 (i) The natural resources and environmental protection act,
24 1994 PA 451, MCL 324.101 to 324.90106.

25 (ii) The Michigan consumer protection act, 1976 PA 331, MCL
26 445.901 to 445.922.

27 (iii) Former 1965 PA 166.

28 (iv) 1978 PA 390, MCL 408.471 to 408.490.

29 (v) A willful or persistent violation of the Michigan



1 occupational safety and health act, 1974 PA 154, MCL 408.1001 to
2 408.1094.

3 (d) Failed to substantially perform a state contract or
4 subcontract according to its terms, conditions, and specifications
5 within specified time limits.

6 (e) Violated department or bid solicitation procedures or
7 violated the terms of a solicitation after bid submission.

8 (f) Refused to provide information or documents required by a
9 contract, including, but not limited to, information or documents
10 necessary for monitoring contract performance.

11 (g) Failed to respond to requests for information regarding
12 vendor performance, or accumulated repeated substantiated
13 complaints regarding performance of a contract or purchase order.

14 (h) Failed to perform a state contract or subcontract in a
15 manner consistent with any applicable state or federal law, rule,
16 or regulation.

17 (2) If the department finds that grounds to debar a vendor
18 exist, it shall send the vendor a notice of proposed debarment
19 indicating the grounds and the procedure for requesting a hearing.
20 If the vendor does not respond with a written request for a hearing
21 within 20 calendar days, the department shall issue the decision to
22 debar without a hearing. Except as otherwise provided in this
23 subsection, the debarment period may be of any length, up to 8
24 years. However, if a vendor is debarred for a violation of
25 subsection (1) (a) or (b), then, except as otherwise provided in
26 this subsection, the debarment shall be for an indefinite period.
27 However, if a vendor is debarred for a duration of more than 2
28 years, after waiting the following periods of time following
29 debarment, the vendor may, due to a change of circumstances,



1 request a redetermination of the decision to debar or the duration
2 of debarment upon written request to the department:

3 (a) For a debarment of more than 2 years and up to 8 years, a
4 2-year period.

5 (b) For a debarment of more than 8 years, a 5-year period.

6 (3) After the debarment period expires, the vendor may reapply
7 for inclusion on bidder lists through the regular application
8 process.

9 (4) A vendor subject to debarment under this section has the
10 right to challenge a decision to debar or the duration of debarment
11 made by the department, or upheld after a hearing in subsection

12 (2), as provided in the administrative procedures act of 1969, 1969
13 PA 306, MCL 24.201 to 24.328, and this act.

14 (5) The department shall maintain and make publicly available
15 a list of all debarred vendors under this section. The list of
16 debarred vendors shall contain the name of the vendor, the date of
17 the decision to debar the vendor, and the duration of the debarment
18 period.

19 Enacting section 1. This amendatory act does not take effect
20 unless all of the following bills of the 100th Legislature are
21 enacted into law:

22 Enacting section 2. This amendatory act does not take effect
23 unless all of the following bills of the 100th Legislature are
24 enacted into law:

25 (a) Senate Bill No. ____ or House Bill No. 4955 (request no.
26 03476'19).

27 (b) Senate Bill No. ____ or House Bill No. 4954 (request no.
28 03477'19).

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