

THE MANAGEMENT AND BUDGET ACT (EXCERPT)
Act 431 of 1984
Article 2

18.1201 Equipment, furniture, and furnishings.

Sec. 201.

The department may issue directives for each state agency to provide for all the following for equipment, furniture, and furnishings in its possession:

- (a) Custody and maintenance.
- (b) Periodic inventories.
- (c) Maintenance and retention of records of the equipment, furniture, and furnishings relative to ownership, cost, operation, maintenance, and warranties.
- (d) Destruction of, or the declaration as surplus of, equipment, furniture, and furnishings, after consultation with any affected state agency.

History: 1984, Act 431, Eff. Mar. 29, 1985

Popular Name: Act 431

Popular Name: DMB

18.1203 State automated information processing installations and telecommunications projects and services.

Sec. 203.

(1) The department shall issue directives, after consultation with any affected state agency, relative to state automated information processing installations and telecommunications projects and services including the planning, establishment, consolidation, or outsourcing of state information processing installations and telecommunications projects and services to assure the design, implementation, and maintenance of effective and efficient support systems for state agencies.

(2) Within 120 days after the end of each fiscal year, the department shall report to the appropriations committees and the fiscal agencies for the immediately past completed fiscal year. The report shall include all of the following:

- (a) A departmental summary of expenditures and source of funding for all information technology projects undertaken by a principal department.
 - (b) Expenditures on information technology hardware, information technology software, information technology consulting services entered into with the private sector, and expenditures related to state employees whose primary work assignment involves information technology support.
 - (c) A distinction between information technology expenditures made directly by state departments and those expenditures made through contracts with the private sector.
- (3) An expenditure shall not be made for automated information processing unless the expenditure is pursuant to an automated information processing plan that is approved by the department.
- (4) The department shall develop and maintain a statewide plan for the effective and efficient utilization of information processing and telecommunication projects and services.
- (5) The department may arrange for and effect a unified and integrated statewide information processing and telecommunication system and provide for the administration of the system.
- (6) A state agency shall not purchase or operate a telecommunications facility or system or an automated data processing system or installation unless the facility, system, or installation is approved by the department.
- (7) Each state agency shall report to the department and to the appropriate appropriations committees and fiscal agencies on each informational system sold or marketed by the state agency or a contractor hired by the state agency. The report shall include all costs of development of the system, the income derived from the marketing or sale, and the disposition of the income.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988 ;-- Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999

Compiler's Notes: For transfer of statutory authority, powers, duties, functions, and responsibilities of certain units, teams, divisions, and offices within the department of management and budget to the department of information technology by type III transfer, see E.R.O. No.

18.1204 Standardized risk management policies, practices, and procedures; development and implementation; review, approval, and administration of risk management related programs; insurance or related services; self-insurance options.

Sec. 204.

(1) The department shall develop and implement standardized risk management policies, practices, and procedures for all state agencies.

(2) The department shall review and approve all risk management related programs of state agencies, including, but not limited to, worker's compensation, disability management, insurance, safety, loss control, claims handling, exposure analysis, accident investigation, and risk management information systems.

(3) After consultation with affected state agencies, the department may administer selected risk management related programs as described in subsection (2).

(4) The department shall review and approve all proposals for the acquisition of insurance or risk management related program services for state agencies and utilize self-insurance options if cost effective.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988 ;-- Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999

Popular Name: Act 431

Popular Name: DMB

18.1205 Additional definitions.

Sec. 205.

(1) As used in this section:

(a) "Form" means an application, questionnaire, permit, order, schedule, record, report, or document in regular and continuing use that is used to obtain information, response, compliance, or application that is required from the public or private sector by this state.

(b) "Forms management program" means a total system intended to improve the efficiency of state government through forms including, but not limited to, survey, analysis, design, specification, printing, buying, inventory storage, use, and distribution of forms.

(2) The department shall issue directives for the implementation and maintenance of a forms management program within each state agency. The department shall coordinate the development of forms at state agencies in order to facilitate the standardization of forms, recommend the elimination of redundant forms, and provide a central source of information regarding forms usage in state government.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988 ;-- Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999

Popular Name: Act 431

Popular Name: DMB

18.1206 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's Notes: The repealed section pertained to forms management program.

Popular Name: Act 431

Popular Name: DMB

18.1206a Designation of racial or ethnic classification in writing developed by state agency; transmission of information to federal agency; "writing" defined.

Sec. 206a.

(1) A state agency shall do both of the following if that state agency lists racial or ethnic classifications in a writing developed or printed 90 or more days after the effective date of this section, and if that state agency requests that an individual select a classification to designate his or her race or ethnicity:

(a) Include in the writing the term "multiracial" as a classification, and a definition of that term that substantially provides that "multiracial" means having parents of different races.

(b) Exclude from the writing the term "other" as a classification.

(2) If a federal agency requires a state agency to transmit information obtained from an individual pursuant to a writing described in subsection (1), but rejects the classification "multiracial", the state agency shall redesignate the individuals identified as multiracial by allocating those individuals to racial or ethnic classifications approved by the federal agency in the same ratio that those classifications occur within the general population of the group from which the information was solicited.

(3) As used in this section, "writing" means that term as defined in section 2 of the freedom of information act, Act No. 442 of the Public Acts of 1976, being section 15.232 of the Michigan Compiled Laws.

History: Add. 1995, Act 89, Imd. Eff. June 20, 1995

Popular Name: Act 431

Popular Name: DMB

18.1207 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's Notes: The repealed section pertained to designation of racial or ethnic classification in writing developed by state agency.

Popular Name: Act 431

Popular Name: DMB

18.1208-18.1211 Repealed. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

Compiler's Notes: The repealed sections pertained to public forms.

Popular Name: Act 431

Popular Name: DMB

18.1213 "Fund" and "motor vehicle" defined; directives relative to motor vehicles; motor vehicle repair centers and motor pools; creation of motor transport revolving fund; disposition of revenue; assets and liabilities; use of alternative fuels; "alternative fuel" defined.

Sec. 213.

(1) As used in this section:

(a) "Fund" means the motor transport revolving fund created in subsection (4).

(b) "Motor vehicle" means a passenger vehicle, van, minibus, bus, truck, tractor, or other motorized vehicle.

(2) The department may issue directives relative to all the following for motor vehicles except for those motor vehicles under the jurisdiction of the state transportation department:

(a) The purchasing, leasing, maintaining, operating, replacing, and disposing of motor vehicles for all state

agencies.

- (b) The using of state owned motor vehicles for official business.
- (c) The establishing of conditions for use of privately owned motor vehicles on official business.
- (d) The acquiring of vehicle registration plates.
- (e) The maintaining of motor vehicle titles and insurance inventories.
- (f) The assigning of motor vehicles, permanently or temporarily, to state agencies and to institutions of higher education.
- (g) The establishing of rates to be charged for use of a motor vehicle. The rates shall be reviewed periodically and shall be sufficient to cover the costs of administration and of the acquisition, operation, maintenance, repair, and replacement of motor vehicles.
- (h) The displaying of distinctive vehicle registration plates and other external markings on the motor vehicles. The plates and markings shall clearly identify state ownership unless the motor vehicle is used by an elected official, or for an investigative use, or anonymity is essential to properly perform a necessary function of state government as determined by the director.
- (3) The department shall establish motor vehicle repair centers and motor pools.
- (4) The motor transport revolving fund is hereby created. The revenue received from rates charged pursuant to subsection (2)(g) and revenue which is received from any other source and designated to be credited to the motor transport revolving fund shall be credited to the motor transport revolving fund. The amounts in the fund are continuously appropriated only for administration and the acquisition, lease, operation, maintenance, repair, and replacement of state owned motor vehicles and related capital outlay and equipment.
- (5) Assets and liabilities of the motor transport revolving fund shall be considered assets and liabilities of the motor transport revolving fund created by this section.
- (6) Not later than January 1, 2007, the director shall install the necessary fueling infrastructure or contract with a supplier to supply alternative fuels at all state motor transport facilities so that all state owned vehicles capable of utilizing alternative fuels are able to use them. As used in this subsection, "alternative fuel" means E85 fuel and biodiesel fuel blends.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 2006, Act 269, Imd. Eff. July 7, 2006

Popular Name: Act 431

Popular Name: DMB

18.1215 Motor vehicle and person to whom motor vehicle assigned; restrictions.

Sec. 215.

(1) As used in this section, "motor vehicle" means a motor vehicle which is defined in section 213(1) and is owned by any of the following:

- (a) The state transportation department.
- (b) The department of natural resources.
- (2) A motor vehicle and the person to whom a motor vehicle is assigned is subject to the following restrictions:
 - (a) An unclassified employee who is a director of a principal department or of a state agency, as determined by the director of the department of management and budget, may be assigned a motor vehicle. A person who is assigned a motor vehicle pursuant to this subdivision may utilize the motor vehicle between the person's residence and official work station.
 - (b) A state employee who may not be assigned a motor vehicle pursuant to subdivision (a) may be assigned a motor vehicle which may be utilized between the person's residence and official work station only if both of the following conditions are satisfied:
 - (i) Adequate or safe work station parking is nonexistent; technical equipment on or in the motor vehicle requires a secure parking area which is not available at the person's work station; or it is in the best interest of the state to occasionally begin or end the assignment of the motor vehicle at the employee's residence.
 - (ii) The residence-to-official work station utilization is approved by the director of the employee's principal department or the authorized representative of the director of the employee's principal department.
 - (c) Except as provided in subdivisions (a) and (b), a person may utilize a motor vehicle for nonduty use only when the employee is on assignment away from the person's work station where other transportation is not available.
 - (d) The value of all mileage driven in a motor vehicle shall be recorded in accordance with regulations issued by the internal revenue service and directives issued by the department.
 - (e) A motor vehicle shall not be used for personal use.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988

Popular Name: Act 431

Popular Name: DMB

18.1217 Directives relative to travel and expenses of officers and unclassified employees of state agencies; approval; meetings of state agencies; travel report.

Sec. 217.

(1) The department shall issue and administer directives relative to the travel of officers and unclassified employees of state agencies when engaged in the performance of state business and for the reimbursement of expenses necessarily incurred when engaged in the performance of state business from whatever source the reimbursement may be financed. The directives issued pursuant to this section shall not take effect unless the directives are approved by the board.

(2) A meeting of a state agency shall be held in a facility owned, leased, being purchased, or operated by this state, the federal government, a unit of local government, or a state supported institution, college, or university, unless the chief executive officer of the state agency, in writing, authorizes a different location.

(3) On January 1 of each year, the director shall prepare a travel report in a format established jointly by the chairpersons of the appropriations committees and shall submit the report to the appropriations committees and the fiscal agencies. The report shall list each person who received compensation, fees, or remuneration under a budget act for travel outside the state during the preceding fiscal year. The listing shall include the name of the person who received the compensation, fees, or remuneration and the destination, reason for, and dates of the travel; and the transportation and related costs. The report shall also include a summary statement of the total in-state travel for the preceding fiscal year.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988 ;-- Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999

Popular Name: Act 431

Popular Name: DMB

18.1219 Directives for management, operation, maintenance, security, and repair of state-owned facilities; determination of space utilization standards; assignment of space in state capitol building and buildings under jurisdiction of legislature; prohibition; management and operation of state capitol building and grounds of Michigan state capitol historic site; definitions.

Sec. 219.

(1) The department shall provide for and issue directives for the management, operation, maintenance, security, and repair of state-owned facilities. The director shall determine space utilization standards and may assign space within the state-owned facilities. The department shall manage and operate state-owned facilities under the jurisdiction of the department.

(2) The department shall not assign space in the state capitol building and shall not assign space in buildings under the jurisdiction of the legislature unless the legislature requests the department to assign such space.

(3) The Michigan state capitol commission shall manage and operate the state capitol building and grounds of the Michigan state capitol historic site. Other than the Michigan state capitol historic site, buildings and grounds used by the senate shall be managed and operated by the senate and buildings and grounds used by the house of representatives shall be managed and operated by the house of representatives.

(4) As used in this section:

(a) "Michigan state capitol commission" means the Michigan state capitol commission established in section 5 of the Michigan state capitol historic site act.

(b) "Michigan state capitol historic site" means the Michigan capitol historic site established in section 4 of the Michigan state capitol historic site act.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1987, Act 122, Eff. July 23, 1987 ;-- Am. 1988, Act 306, Eff. Sept. 1, 1988 ;-- Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988 ;-- Am. 1990, Act 332, Imd. Eff. Dec. 21, 1990 ;-- Am. 1991, Act 72, Eff. July 11, 1991 ;-- Am.

Popular Name: Act 431

Popular Name: DMB

18.1221 Rentals and leases; approval; notification; easements; determination of market rental values; building occupancy rates.

Sec. 221.

(1) The director may provide for the rental and lease of land and facilities for the use of state agencies in the manner provided by law. The rentals and leases shall not be effective unless approved by the board.

(2) If the director proposes to lease space or a facility for which the annual base cost of the proposed lease is more than \$500,000.00, approval of the joint capital outlay subcommittee is required prior to board approval.

(3) The department shall provide notification to the JCOS and to the fiscal agencies within 5 business days of rental agreements entered into in which the base cost is more than \$500,000.00.

(4) For the purposes of this section, the renewal of an existing lease will require the approval of the joint capital outlay subcommittee if the renewal results in changes to the lease that would cause it to meet the requirements outlined in subsection (2).

(5) The department may grant easements, upon terms and conditions the board determines are just and reasonable, for highway and road purposes, and for constructing, operating, and maintaining pipelines or electric, telephone, telegraph, television, gas, sanitary sewer, storm sewer, or other utility lines including all supporting fixtures and other appurtenances over, through, under, upon, and across any land belonging to this state, except lands under the jurisdiction of the department of natural resources, the department of military and veterans affairs, or the state transportation department.

(6) The department shall determine annually the prevailing market rental values of all state owned office facilities and private facilities which provide housing for state employees. The rental values determined pursuant to this subsection shall not be effective unless approved by the board. The renting, leasing, or licensing of state-owned land and facilities to private and public entities shall be at prevailing market rental values or at actual costs as determined by the director.

(7) The department shall charge state agencies for building occupancy in state-owned facilities under the jurisdiction of the department. The rates to be charged for building occupancy shall be coordinated with the budget cycle. The rates shall reflect the actual cost for occupancy of the facilities.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1987, Act 122, Eff. July 23, 1987 ;-- Am. 1988, Act 306, Eff. Sept. 1, 1988 ;-- Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988 ;-- Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999 ;-- Am. 2012, Act 430, Imd. Eff. Dec. 21, 2012

Popular Name: Act 431

Popular Name: DMB

***** 18.1221a THIS SECTION IS NOT EFFECTIVE AFTER MARCH 31, 2015: See (2) of 18.1221a *****

18.1221a Reports; section ineffective after March 31, 2015; "project" defined.

Sec. 221a.

(1) The department shall provide the JCOS and the fiscal agencies with the following reports:

(a) By November 1 of each year, for state-owned space as of September 30 of that year, all of the following:

(i) The department occupying or using the space.

(ii) The building location, including street address, city or township, and county.

(iii) The type of building, such as office, warehouse, garage, storage, or other use.

(iv) The square footage.

(v) The occupancy and usage of space compared to total space available.

(vi) The condition of facility and estimated future special maintenance costs.

(b) By November 1 of each year, for privately owned state-leased space as of September 30 of that year, all of the following:

- (i) The department occupying or using the space.
- (ii) The lease number.
- (iii) The building location, including street address, city or township, and county.
- (iv) The type of building, such as office, warehouse, garage, storage, or other use.
- (v) The name and address of lessor.
- (vi) The square footage and net square footage rate.
- (vii) The occupancy and usage of space compared to total space available.
- (viii) The monthly and annual cost.
- (ix) The date the lease starts and expires.
- (x) The options and services.
- (xi) The total monthly and annual cost for all leases described in this subdivision.
- (c) At least 2 weeks prior to a state lease proposal being included on a JCOS meeting agenda for review and approval, all of the following:
 - (i) The lease number.
 - (ii) The department.
 - (iii) The location.
 - (iv) The lessor.
 - (v) The total square footage and use of space.
 - (vi) Lease costs, to include annual costs of lease, monthly costs of lease, cost per square foot, and increases, if any, from prior lease to new lease.
 - (vii) The costs to renovate.
 - (viii) The costs for utilities.
 - (ix) The management fees.
 - (x) The amount paid for ad valorem property taxes.
 - (xi) The operating costs.
 - (xii) The lease terms.
 - (xiii) If an option to purchase is included, the terms of the offer to purchase and rationale for not funding construction through the state building authority.
 - (xiv) The existing space, including years in existing location, cost, terms of the lease, and disadvantages related to continuing in current location.
 - (xv) The bid process, including an overview including dates, number of proposals submitted, cost range of proposals, comparable market rates, and an explanation if lowest bid was not accepted.
 - (xvi) A cost comparison listing the total square footage, base cost per square foot, annual lease cost, cost for utilities, taxes, operating costs, and total annual cost for the proposed lease and the current lease, and show the difference in costs.
- (d) Not later than 45 days after the close of the fiscal year, the status of all active planning and construction projects approved by JCOS and financed through the state building authority or state general fund/general purpose revenues, including all of the following:
 - (i) The name of each project.
 - (ii) The applicable appropriation acts.
 - (iii) The appropriation year and account numbers.
 - (iv) The total authorized cost for the project and state authorized share.
 - (v) The unencumbered balance remaining in each account.
 - (vi) The expiration date of authorization.
 - (vii) The current project status: planning, preconstruction, construction, or postconstruction.
 - (viii) The estimated completion date.
 - (ix) As applicable, the qualifying carryforward exemption under section 248(4) or (6).
- (2) This section is in effect until March 31, 2015.
- (3) As used in this section, "project" includes appropriation line items made for purchase of real estate.

History: Add. 2012, Act 430, Imd. Eff. Dec. 21, 2012

Popular Name: Act 431

Popular Name: DMB

18.1222 Property acquired through installment lease agreement as public property; exemption from property tax.

Sec. 222.

Property acquired for the state or a state agency through an installment lease agreement is public property and shall be considered exempt for purposes of the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws, if the state as lessee under the installment lease agreement is required to pay any taxes or reimburse the lessor for any payments the lessor has made.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988

Popular Name: Act 431

Popular Name: DMB

18.1223 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's Notes: The repealed section pertained to department of labor building in Detroit.

Popular Name: Act 431

Popular Name: DMB

18.1224 Access to public information; use of telephone system; limitation on charges.

Sec. 224.

Beginning January 1, 2004, a state agency shall not use a 900 telephone number or other telephone system that charges the caller for access to public information held or maintained by a state agency.

History: Add. 2003, Act 12, Imd. Eff. May 29, 2003

Popular Name: Act 431

Popular Name: DMB

18.1225 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's Notes: The repealed section pertained to security measures for facilities.

Popular Name: Act 431

Popular Name: DMB

18.1227 Parking; disposition of fees, penalties, and fines; rules.

Sec. 227.

The department shall establish, operate, and maintain parking for state buildings and facilities operated by the department. The department may establish and collect fees for parking on state operated parking facilities from state employees, state officials, and from the general public. The fees, penalties, and fines collected under this section shall be credited to the state general fund. The department shall promulgate rules pursuant to section 131(2) relative to the operation of the state operated parking facilities. The rules shall provide for the assessment of penalties and fines, for the removal of vehicles, and for a grievance process.

History: 1984, Act 431, Eff. Mar. 29, 1985

Popular Name: Act 431

Popular Name: DMB

Admin Rule: R 18.401 et seq. of the Michigan Administrative Code.

18.1237 Acquisition, construction, lease purchase, improvement, or demolition of facilities; studies, designs, plans, specifications, and contract documents; employment and duties of architects and professional engineers; quality control; independent testing services; final approval; review by attorney general.

Sec. 237.

(1) For state agency capital outlay projects or facilities, the department is responsible for development, oversight, review, and approval of program statements, studies, designs, plans, management, specifications, contract documents, construction management, and construction, relative to the acquisition, construction, lease purchase, improvement, demolition, or other capital outlay projects for state agencies for which an appropriation or other authorization has been made.

(2) The department shall approve the award, selection, and employment of architects, professional engineers, construction managers, and other design or construction professional services contractors, subject to section 237b and rules of the department of civil service, to do all of the following:

(a) Prepare program statements, studies, designs, plans, and specifications for the construction of, repairing of, making additions to, remodeling or demolition of, lease purchase of, or acquisition of state facilities.

(b) Administer construction work, including resident inspectors, on-site management, and supervision of construction projects.

(3) The department may obtain independent testing services to provide quality control of work performed on facilities.

(4) Prior to state building authority financing, the department shall provide final approval of the capital outlay project to ensure compliance with the authorized program, plans, and specifications.

(5) The attorney general shall review all standard lease and lease purchase agreement formats and approve any exceptions to the standard formats and may assess a fee for legal services pursuant to an agreement with the department.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999 ;-- Am. 2002, Act 504, Imd. Eff. July 19, 2002

Popular Name: Act 431

Popular Name: DMB

18.1237a Community college and university capital outlay projects.

Sec. 237a.

(1) This section pertains to capital outlay projects for community colleges and universities.

(2) The department shall review documents associated with community college and university capital outlay projects for which an appropriation or other authorization has been made.

(3) The department shall provide architectural and professional engineering review of documents including designs, plans, and change orders at each stage of the project to ensure that the project or facility is in compliance with approved program, appropriation, and capital outlay requirements.

(4) The department shall review the award and selection of architects, professional engineers, construction managers, and other design or construction professional service contractors.

(5) The department shall do all of the following:

(a) Review the construction bid.

(b) Review monthly reports to ensure appropriate construction progress, evaluate change orders, and watch for potential problems.

(c) Respond to college and university requests for assistance on the capital outlay process, contractor issues, and other capital outlay related issues.

(d) Provide for field checks and audits throughout the project in order to meet the trustee requirements of the state building authority.

(6) The department may require that community colleges and universities self-managing construction of a capital

outlay project enter into an agreement with the department in which the community college or university agrees to construct the project within the total authorized cost, design, and program scope established by the legislature. This agreement shall include, but is not limited to, certification from the community college or university that the operating costs resulting from the capital outlay project are the responsibility of the community college or university. The agreement may include other requirements as identified by the department that are necessary to complete the project and fulfill the project oversight requirements of this act.

(7) The department retains the authority and fiduciary responsibility normally associated with the prudent maintenance of the public's financial and policy interests relative to the state-financed construction projects managed by a community college or university. The director may take appropriate action to bring the capital outlay project to conclusion if the public's financial and policy interests are in jeopardy and there is a failure on the part of a community college or university to adhere to the requirements of this act. The director shall provide notice to the joint capital outlay subcommittee within 10 days of exercising authority under this subsection.

(8) The department may charge a fee for the services described in this section at a rate not to exceed actual costs.

(9) In the event that a college or university chooses to have the department provide for the complete administration of a capital outlay project, then the provisions of section 237 apply to the project.

(10) Prior to state building authority financing, the department shall provide final review of the capital outlay project to ensure compliance with the authorized program, plans, and specifications.

History: Add. 1999, Act 8, Imd. Eff. Mar. 22, 1999 ;-- Am. 2012, Act 430, Imd. Eff. Dec. 21, 2012

Popular Name: Act 431

Popular Name: DMB

18.1237b Architects, professional engineers, professional surveyors, and qualified firms; selection.

Sec. 237b.

The selection of architects, professional engineers, professional surveyors, and qualified firms shall be made in accordance with competitive, qualifications-based selection processes and procedures for the type of professional service required by the department.

History: Add. 2002, Act 504, Imd. Eff. July 19, 2002

Popular Name: Act 431

Popular Name: DMB

18.1237c Contract with architect, professional engineer, or contractor; liability; limitation; "contractor" defined.

Sec. 237c.

(1) When entering into a contract with an architect, professional engineer, or contractor for any capital outlay project, capital improvement, or facility, the department shall not require the architect, professional engineer, or contractor to assume any liability or indemnify this state for any amount greater than the degree of fault of the architect, professional engineer, or contractor.

(2) As used in this section, "contractor" means a person who, pursuant to a contract with the owner or lessee of real property, provides an improvement to real property.

History: Add. 2004, Act 429, Imd. Eff. Dec. 20, 2004

Popular Name: Act 431

Popular Name: DMB

18.1238 Universities and community colleges; report.

Sec. 238.

(1) Universities and community colleges shall report on all contracts entered into for new construction of self-funded projects costing in excess of \$1,000,000.00. New construction includes land or property acquisition, remodeling and additions, maintenance projects, roads, landscaping, equipment, telecommunications, utilities, and parking lots and structures. Reports shall be submitted to the JCOS, the fiscal agencies, and the state budget office on or before June 30 and December 31 of each year. Each report shall include, but not be limited to, the following information on all self-funded capital projects commenced for the immediately preceding 6-month period:

(a) Description of the project, to include purpose, need, justification, and start and completion dates.

(b) Statement of gross estimated capital improvement or project costs including a breakdown of land costs, site development and demolition costs, construction costs, costs of furnishings and equipment, fees, and any other special costs.

(c) Listing of all sources of funding for project costs to include borrowed funds, university or college funds, gifts, grants, federal funds, private funds, state funds, student fees or tuition, any other funds, and any combination of funds.

(d) Statement of the impact of project financing on student tuition.

(2) If changes occur in any information provided in a previously submitted report, those changes shall be included in the next report issued. Failure to comply with this section will result in penalties as provided for in the higher education and community colleges appropriations bills. The university of Michigan hospital and health center is excluded from this reporting requirement.

History: Add. 2012, Act 430, Imd. Eff. Dec. 21, 2012

Compiler's Notes: Former MCL 18.1238, which pertained to contracts for professional services contractors, was repealed by Act 8 of 1999, Imd. Eff. Mar. 22, 1999.

Popular Name: Act 431

Popular Name: DMB

18.1239 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's Notes: The repealed section pertained to design of facilities.

Popular Name: Act 431

Popular Name: DMB

18.1240 Cost plus construction contract; conditions.

Sec. 240.

A cost plus construction contract shall not be entered into unless all of the following occur:

(a) The contract cost is less than \$50,000.00.

(b) The contract is for emergency repair or construction caused by unforeseen circumstances.

(c) The repair or construction is necessary to protect life or property.

(d) The contract complies with the contract requirements of the department of civil rights.

History: 1984, Act 431, Eff. Mar. 29, 1985

Popular Name: Act 431

Popular Name: DMB

18.1241 Contract for construction, repair, remodeling, or demolition of facility; bidding procedure; award;

expenditure; director as agent; preference to qualified disabled veteran; responsive and responsible best value bidder; definition.

Sec. 241.

(1) Except for the contracts permitted in section 240, a contract shall not be awarded for the construction, repair, remodeling, or demolition of a facility unless the contract is let pursuant to a bidding procedure that is approved by the board. The department shall issue directives prescribing procedures to be used to implement this section. The procedures shall require a competitive solicitation in the award of any contract for construction, repair, remodeling, or demolition of a facility.

(2) The department may award or approve the award, if the board approves, of construction contracts to construct a project for which the director is the agent and may expend, for the purposes and in the manner set forth, the amounts appropriated. The director is not the agent for a community college or institution of higher education, but may act in that capacity upon the specific request of a community college or institution of higher education.

(3) In awarding a contract under this section, the department shall give a preference of up to 10% of the amount of the contract to a qualified disabled veteran, as defined in section 261. If the qualified disabled veteran otherwise meets the requirements of the contract solicitation and with the preference is the lowest bidder, the department shall enter into a construction contract with the qualified disabled veteran under this act. If 2 or more qualified disabled veterans are the lowest bidders on a contract, all other things being equal, the qualified disabled veteran with the lowest bid shall be awarded the contract under this act.

(4) Subject to subsection (3), for projects funded in whole or part with state funds, the construction contract award shall be made to the responsive and responsible best value bidder. As used in this subsection, "responsive and responsible best value bidder" means a bidder who meets all the following:

(a) A bidder who complies with all bid specifications and requirements.

(b) A bidder who has been determined by the department to be responsible by the following criteria:

(i) The bidder's financial resources.

(ii) The bidder's technical capabilities.

(iii) The bidder's professional experience.

(iv) The bidder's past performance.

(v) The bidder's insurance and bonding capacity.

(vi) The bidder's business integrity.

(c) A bidder who has been selected by the department through a selection process that evaluates the bid on both price and qualitative components to determine what is the best value for this state. Qualitative components may include, but are not limited to, all of the following:

(i) Technical design.

(ii) Technical approach.

(iii) Quality of proposed personnel.

(iv) Management plans.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999 ;-- Am. 2010, Act 22, Imd. Eff. Mar. 25, 2010 ;-- Am. 2012, Act 430, Imd. Eff. Dec. 21, 2012

Popular Name: Act 431

Popular Name: DMB

18.1241a Contract for construction, alteration, repair, or rebuilding of state building or other state property; mandatory clause; breach of clause; applicability of section.

Sec. 241a.

The department shall require that each contract entered into for construction, alteration, repair, or rebuilding of a state building or other state property contain a clause requiring that of the persons working on a project and employed by the contractor or subcontractor of the contractor, not less than 50% shall have been residents of this state for not less than 1 year before beginning work, except that the percentage shall be reduced or the clause omitted to the extent that residents are not available or to the extent necessary to comply with a federal law or regulation concerning federal funds used for the project. A breach of the clause shall be considered a material breach of the contract. This section shall not apply to employers who are signatory to collective bargaining agreements and which agreements allow for the portability of the employees on an interstate basis.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988
Popular Name: Act 431
Popular Name: DMB

18.1241b Construction, alteration, repair, or rebuilding of state building or facility; energy efficiency of materials.

Sec. 241b.

The department shall consider the energy efficiency of all materials used in the construction, alteration, repair, or rebuilding of a building or facility owned or operated by this state.

History: Add. 1995, Act 38, Imd. Eff. May 22, 1995
Popular Name: Act 431
Popular Name: DMB

18.1241c Contract with person for construction, alteration, or repair of state building or property; representation that person not engaged in boycott; definitions.

Sec. 241c.

(1) Beginning October 1, 2017, the department or a state agency may not enter into a contract with a person for the construction, alteration, or repair of a state building or other state property unless the contract includes a representation that the person is not currently engaged in, and an agreement that the person will not engage in, the boycott of a person based in or doing business with a strategic partner.

(2) As used in this section, "boycott", "person", and "strategic partner" mean those terms as defined in section 261.

History: Add. 2016, Act 527, Imd. Eff. Jan. 9, 2017
Popular Name: Act 431
Popular Name: DMB

18.1242 Development of 5-year capital outlay plans; review; priorities; program statements and schematic planning documents; authorization of project for final design and construction; submission of bid results summary to JCOS; oversight; appropriation not considered as commitment.

Sec. 242.

(1) State agencies, community colleges, and universities shall develop 5-year capital outlay plans, which shall identify capital outlay needs, including new construction, or the addition, renovation, adaptive reuse, and improvement of existing facilities. For state agencies, community colleges, and universities, the 5-year capital outlay plans shall also include the need for special maintenance. These plans shall be submitted in electronic format to the department, to members of the JCOS, and to the fiscal agencies not later than November 1 of each year.

(2) The department and the JCOS shall review state agency, community college, and university capital outlay plans. The department and the JCOS shall prioritize requests. The department shall include the department-recommended requests in the executive budget recommendation. If a state agency, community college, or university subsequently modifies a request, the revision shall be submitted to the department, members of the JCOS, and the fiscal agencies.

(3) The department and the chairperson and vice-chairperson of the JCOS shall review and evaluate by March 1 of each year capital outlay project requests received from community colleges, universities, and state agencies. All of the following shall be considered when reviewing and evaluating project requests:

- (a) Investment in existing facilities and infrastructure.
 - (b) Life and safety deficiencies.
 - (c) Occupancy and utilization of existing facilities.
 - (d) Integration of sustainable design to enhance the efficiency and operations of the facility.
 - (e) Estimated cost.
 - (f) Institutional support.
 - (g) Estimated operating costs.
 - (h) Impact on tuition, if any.
 - (i) Impact on job creation in this state.
 - (j) History of prior appropriations received by the institution through the capital outlay process.
- (4) The request for program development and schematic planning must be approved by the JCOS and the legislature through the appropriation process.
- (5) Program statements and schematic planning documents shall be reviewed by the department and, when the review is completed, shall be submitted to the JCOS as either approved or not approved.
- (6) Upon review and approval by the JCOS, the JCOS and the legislature may authorize the project for final design and construction with a line-item appropriation in an appropriation bill. The appropriations bill shall include appropriations for projected state building authority rental payments associated with the projects that are authorized for construction. The authorization shall include the legislative lease approval required for state building authority financing.
- (7) Preliminary plans shall be submitted to the department for review and approval. The department shall review and approve final plans to be prepared for bidding. A summary of bid results shall be submitted to the JCOS.
- (8) The department shall provide for review and oversight of capital outlay projects financed either in total or in part by the state building authority pursuant to the provisions of sections 237 and 237a.
- (9) Appropriations made for studies and initial plans shall not be considered a commitment on the part of the legislature to appropriate funds for the completion of plans or construction of any project based on the studies or planning documents.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999 ;-- Am. 2012, Act 430, Imd. Eff. Dec. 21, 2012

Popular Name: Act 431

Popular Name: DMB

18.1242a Annual review.

Sec. 242a.

The JCOS and department shall annually review the outstanding obligations of the state building authority, as well as the state's lease obligations for previously constructed and state building authority financed projects that provide revenue to the state building authority to retire outstanding bonds.

History: Add. 2012, Act 430, Imd. Eff. Dec. 21, 2012

Popular Name: Act 431

Popular Name: DMB

18.1243 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's Notes: The repealed section pertained to schematics, preliminary plans, and construction contracts.

Popular Name: Act 431

Popular Name: DMB

18.1244 Scope of construction appropriation; direct labor charges; resident inspector; indirect or

administrative overhead costs; separate accounts; design and construction requirements; contract to complete construction of project; conditions.

Sec. 244.

(1) Except as otherwise expressly provided or as provided in section 246, a construction appropriation includes, where applicable, costs for land; professional services, including engineering and inspection services; all construction trades work; utilities; site work; on site supervision; equipment; furniture; and furnishings for a completed facility ready for use. The appropriation for a project authorized in a budget act shall be charged with any direct labor performed on that project by employees of the state agency for which the appropriations are made. For each construction project for which the department is an agent, the department shall determine the need for a resident inspector to provide on site supervision. The department may employ and assign the resident inspector with the inspector's salary to be paid from the project account, or from the account designated by the department. If the department approves, a qualified employee of the state agency's regular staff may be the resident inspector with the inspector's salary to be paid from the state agency's operating funds. This subsection shall apply to all projects regardless of when the appropriations were made for the project. The direct labor charges and corresponding credits shall be made in accordance with the systems and procedures prescribed by the department. Charges shall not be made to projects for any indirect or administrative overhead costs, except professional services by a state agency if the professional services are approved by the department and if the department is the agent for the project and provides professional services or administers and supervises the project. The director may establish separate accounts within an appropriation to permit a state agency, community college, or institution of higher education to make expenditures for equipment, furniture, and furnishings. The director shall carry out this act and shall exercise the best professional judgment in the design and construction of all projects included within a budget act so that the design and construction meets the requirements of the projects in the most economical and efficient manner, with particular emphasis on future maintenance and operating cost.

(2) A contract to complete the construction of a project for which construction appropriations are made in a budget act shall be made upon the conditions that the total cost for the completion of each facility, ready for use, shall not exceed the total cost authorized for each respective project; that the obligations for payments for each project, during the fiscal years subject to this act, shall not exceed the amount appropriated for each specific facility by this and previous budget acts; and that the contract may be awarded before the beginning of the next fiscal year if the terms of the contract provide that payments shall not be made until after the first day of the following fiscal year, except in amounts previously appropriated.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988

Popular Name: Act 431

Popular Name: DMB

18.1245 Sign at site of state project.

Sec. 245.

A sign of appropriate dimensions shall be prominently displayed at the site of each state project costing in excess of \$500,000.00, or on sites where such a sign is required by other governmental units. The sign shall state the project title, the total project cost, the amount authorized to be appropriated by "the people of the state of Michigan", and the amount of federal or other grants, if any.

History: 1984, Act 431, Eff. Mar. 29, 1985

Popular Name: Act 431

Popular Name: DMB

18.1246 Release of allocations; approval; total authorized cost or sufficient appropriation; establishment or revision.

Sec. 246.

The release of allocations may be approved when the legislature has specified either a total authorized cost or has appropriated an amount sufficient to complete the designated project. The authorized cost and program scope of state agency, community college, and university projects shall only be established or revised by specific reference in a budget act.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988 ;-- Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999 ;-- Am. 2012, Act 430, Imd. Eff. Dec. 21, 2012

Popular Name: Act 431

Popular Name: DMB

18.1247 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's Notes: The repealed section pertained to transfer of appropriations.

Popular Name: Act 431

Popular Name: DMB

18.1248 Applicability of section; capital outlay project; carrying forward prior authorized projects; continuation or lapse of balance; termination of project; continuation of project beyond limits in section; conditions; carrying forward grant or grant-in-aid.

Sec. 248.

(1) This section applies to all state agency, community college, and university capital outlay projects appropriated in any budget act. Projects authorized prior to the amendatory act that added this sentence shall be carried forward consistent with the provisions of this section in effect prior to the date of the amendatory act that added this sentence.

(2) Appropriations made in any budget act for a planning project shall not lapse to the fund from which appropriated at the end of the fiscal year, but shall continue until the purposes for which the sums were appropriated are completed. However, planning authorization for each project which has not been authorized for final design and construction in an appropriation act shall be terminated 24 months after the last day of the fiscal year in which the authorization was originally made, unless the project is specifically reauthorized in a budget act. The termination of authorization in the immediately preceding sentence does not apply if program and schematic planning documents are submitted by community colleges and universities within the time frame specified in the immediately preceding sentence.

(3) Appropriations made in any budget act for final design and construction shall not lapse to the fund from which they are appropriated at the end of the fiscal year, but shall continue until the purposes for which the sums were appropriated are completed. However, final design and construction authorization for each project where construction has not commenced shall be terminated 36 months after the last day of the fiscal year in which the authorization was originally made, unless the project is specifically reauthorized in a budget act.

(4) A capital outlay project may be continued beyond the limitations contained in this section if 1 or more of the following conditions apply:

(a) A bid for the start of construction of the project is awarded or construction of the project has commenced.

(b) A capital outlay project for the purchase of property in which a contract is entered into, but the acquisition is not completed. Only the amount necessary to complete the purchase of property pursuant to the contract shall be carried forward.

(c) A federal grant award is pending release.

(d) The project is subject to legal action, the balance shall lapse 30 days after the legal action is settled, or 30 days after a final order is entered, whichever is later.

(e) The unobligated balance of the appropriations for the project may continue for 12 months after a project is substantially completed.

(f) Not later than 45 days after the conclusion of the fiscal year, the director shall notify the JCOS and the fiscal agencies of planning and construction authorizations that will continue beyond limitations specified under this section.

(5) An unexpended balance which is to lapse pursuant to this section shall lapse to the fund from which the

appropriation is made.

(6) A grant or grant-in-aid appropriated for the demolition, acquisition, construction, repair, or maintenance of capital assets shall not be reduced, adjusted, delayed, impounded, lapsed, or otherwise altered by the director for any purpose without legislative approval and shall be carried forward until the work is completed or for 36 months after the last day of the fiscal year in which the construction appropriation was originally made, whichever comes first.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999 ;-- Am. 2012, Act 430, Imd. Eff. Dec. 21, 2012

Popular Name: Act 431

Popular Name: DMB

18.1249 Matching revenues.

Sec. 249.

(1) If matching revenues for a capital outlay project are received in an amount less than the appropriations contained in a budget act, the state portion of the appropriation shall be reduced in proportion to the amount of matching revenue received.

(2) A state agency, community college, or university shall take the steps necessary to make available federal or other money that may be available and to use all or part of the appropriations to meet matching requirements that are considered to be in the best interest of this state. However, the purpose, scope, and total estimated cost of a project shall not be altered to meet the matching requirements. Any federal matching revenues received to support the construction of a project shall be applied to the total authorized project cost, with state, community college, or university financing shares proportionately adjusted.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 2012, Act 430, Imd. Eff. Dec. 21, 2012

Popular Name: Act 431

Popular Name: DMB

18.1250 References to former law.

Sec. 250.

Any reference in any act to former Act No. 242 of the Public Acts of 1976, shall be considered a reference to sections 237 to 252 of this act.

History: 1984, Act 431, Eff. Mar. 29, 1985

Popular Name: Act 431

Popular Name: DMB

18.1251 Applicability of section to real property of state; development and maintenance of real property records and facility inventories; award of service contracts; employment of land surveyors; directives for disposition of surplus facilities and lands.

Sec. 251.

(1) This section applies to all real property of the state except all of the following:

- (a) Property under the jurisdiction of the state transportation department.
- (b) Property under the jurisdiction of a state institution of higher education.
- (c) Property under the jurisdiction of the department of natural resources.
- (d) Property under the jurisdiction of the department of military affairs.

(2) The department shall provide for the development and maintenance of real property records and facility inventories. The department may award appropriate service contracts or employ land surveyors to survey, monument, map, describe, and record real property and facilities.

(3) The department shall issue directives to provide for the disposition process for facilities and lands that are considered surplus. The department shall require a public notice component in its directives regarding the disposition process under this subsection.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999

Popular Name: Act 431

Popular Name: DMB

18.1252 Current data and directives as to facilities; technical assistance as to special maintenance projects.

Sec. 252.

The department shall provide current data relative to the use, physical condition, and space availability of facilities. The department may issue directives for the appropriate maintenance, repair, renovation, and renewal of facilities. The department shall provide technical assistance to state agencies in planning and scheduling special maintenance projects.

History: 1984, Act 431, Eff. Mar. 29, 1985

Popular Name: Act 431

Popular Name: DMB

18.1253 Energy conservation improvements.

Sec. 253.

A state agency may enter into a multi-year contract for energy conservation improvements to state facilities which would be paid for from the avoided operating costs for utility service or fuel produced by the improvements.

History: Add. 1987, Act 122, Eff. July 23, 1987

Popular Name: Act 431

Popular Name: DMB

18.1254 Certificate of energy cost savings; distribution of unencumbered balance of appropriation for fuel or utilities.

Sec. 254.

(1) Upon the request of a state agency, the public service commission shall provide to the state agency a certificate of energy cost savings based upon actual energy use and cost data as provided to the commission by the state agency.

(2) At the close of each fiscal year, the amount of any unencumbered balance of a state appropriation for fuel or utilities to a state agency which resulted due to energy management actions as certified by the public service commission, as provided in subsection (1), shall be distributed as follows:

(a) 75% of the energy cost savings, as certified by the commission, shall be carried forward to the next fiscal year and allocated to a special energy conservation work order or work project account to be used for energy conservation measures in the facilities of the state agency to which the certificate was issued.

(b) The remaining unencumbered balance shall be credited to the fund from which appropriated.

History: Add. 1987, Act 122, Eff. July 23, 1987

Compiler's Notes: For transfer of powers and duties of the public service commission pertaining to the certification of energy savings by state departments from the public service commission to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

Popular Name: Act 431

Popular Name: DMB

18.1261 Supplies, materials, services, insurance, utilities, third party financing, equipment, printing, and other items; purchase; contract; preference; discretionary decisions by department; competitive solicitation; exceptions; delegation of procurement authority; lease or installment purchases; directives; cooperative purchasing agreement; preference to disabled veteran; representation in contract that person not engaged in boycott; exemption from freedom of information act; performance-related damages or targets; definitions.

Sec. 261.

(1) The department shall provide for the purchase of, the contracting for, and the providing of supplies, materials, services, insurance, utilities, third party financing, equipment, printing, and all other items as needed by state agencies for which the legislature has not otherwise expressly provided. If consistent with federal statutes, in all purchases made by the department, all other things being equal, preference shall be given to products manufactured or services offered by Michigan-based firms or by facilities with respect to which the operator is designated as a clean corporate citizen under part 14 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.1401 to 324.1429, or to biobased products whose content is sourced in this state. The department shall solicit competitive bids from the private sector whenever practicable to efficiently and effectively meet the state's needs. The department shall first determine that competitive solicitation of bids in the private sector is not appropriate before using any other procurement method for an acquisition.

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

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

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

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

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

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

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

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

(4) The department may delegate its procurement authority to other state agencies within dollar limitations and for designated types of procurements. The department may withdraw delegated authority upon a finding that a state agency did not comply with departmental procurement directives. If a state agency has the department's procurement authority delegated to it under this subsection and if it chooses to exercise an option under an existing procurement contract to continue that procurement contract, before exercising that option, the state agency shall first obtain written approval from the department that exercising the option is in the best interest of this state.

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

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

(7) The department may enter into a cooperative purchasing agreement with 1 or more other states or public entities for the purchase of goods, including, but not limited to, recycled goods, and services necessary for state programs.

(8) In awarding a contract under this section, the department shall give a preference of up to 10% of the amount

of the contract to a qualified disabled veteran. If the qualified disabled veteran otherwise meets the requirements of the contract solicitation and with the preference is the lowest bidder, the department shall enter into a procurement contract with the qualified disabled veteran under this act. If 2 or more qualified disabled veterans are the lowest bidders on a contract, all other things being equal, the qualified disabled veteran with the lowest bid shall be awarded the contract under this act.

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

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

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

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

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

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

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

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

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

(a) A bid, quote, or proposal submitted in connection with the authority granted under this section, and records created in the preparation for and evaluation of the bid, quote, or proposal until the time of final notification of award of the contract.

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

(14) The department shall develop policies and procedures that require all procurement contracts entered into by the department or a state agency, including departments that have delegated procurement authority under this act, to include performance-related liquidated damages or performance targets with incentives in all procurement contracts. The department shall also develop policies and procedures that require the department or state agency to enforce these provisions. Departments or state agencies acting under delegated authority shall inform the department of relevant performance issues. Exceptions to the inclusion or enforcement of performance-related contract provisions may only be granted by the department as provided in a written or electronic record by the department.

(15) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988 ;-- Am. 1993, Act 46, Imd. Eff. May 27, 1993 ;-- Am. 2005, Act 91, Imd. Eff. July 20, 2005 ;-- Am. 2006, Act 622, Imd. Eff. Jan. 3, 2007 ;-- Am. 2008, Act 133, Imd. Eff. May 21, 2008 ;-- Am. 2012, Act 555, Imd. Eff. Jan. 2, 2013 ;-- Am. 2016, Act 204, Eff. Sept. 20, 2016 ;-- Am. 2016, Act 376, Eff. Mar. 22, 2017 ;-- Am. 2016, Act 526, Imd. Eff. Jan. 9, 2017 ;-- Am. 2017, Act 21, Imd. Eff. Mar. 31, 2017 ;-- Am. 2020, Act 173, Imd. Eff. Oct. 1, 2020 ;-- Am. 2020, Act 174, Eff. Dec. 30, 2020

Popular Name: Act 431

Popular Name: DMB

18.1261a Recycled supplies, materials, and equipment; effect of noncompliance; exemption; cost considerations; report; "recycled materials" defined.

Sec. 261a.

(1) In addition to the requirements of section 261, the following percentages of all supplies, materials, and equipment shall be made from recycled materials, if there is a readily identifiable source or market as determined by the director, and the cost does not exceed 110% of supplies, materials, and equipment not containing recycled materials: for 1989, 10%; for 1990, 15%; and for 1991 and each year thereafter, 20%.

(2) If the department is unable to comply with the requirement of this section, the department shall do both of the following:

(a) With the assistance of any state agency that utilizes the supply, material, or equipment, seek a supply, material, or equipment that fulfills the requirements of subsection (1).

(b) Report to the legislature and the affected state agency that the department is unable to comply with subsection (1), the reason for the inability to comply, and the efforts made by the department to comply.

(3) If a state agency informs the department that it is unable to utilize a recycled supply, material, or equipment, the agency shall request and justify an exemption from subsection (1) in writing. The department may grant an exemption from the requirements of subsection (1) upon just cause.

(4) When the department fulfills its responsibilities under this act to purchase and contract for supplies, materials, equipment, and printing, it may consider the product longevity and the annual maintenance costs of the product as well as the unit price in determining whether the cost of the product with recycled materials exceeds the cost of a product not containing recycled materials by 110%.

(5) The department shall annually report to the governor and the legislature on the quantities and types of recycled products purchased by the department.

(6) As used in this section, "recycled materials" includes, but is not limited to, recycled paper products, structural materials made from recycled plastics, rerefined lubricating oils, reclaimed solvents, recycled asphalt and concrete, recycled glass products, retreaded tires, and ferrous and nonferrous metals containing recycled scrap metals, that contain 1 or more of the following in a percentage as determined by the department as provided by law:

(a) Waste materials generated by a business or a consumer.

(b) Materials that have served their intended purpose.

(c) Materials that have been separated from solid waste for purposes of collection, recycling, and disposition.

History: Add. 1988, Act 413, Eff. Mar. 30, 1989

Popular Name: Act 431

Popular Name: DMB

18.1261b Purchase of recycled paper; phase-in period; directives; label; records; definitions.

Sec. 261b.

(1) In addition to the requirements of section 261, to the extent available, all paper products purchased or contracted for by the department shall be made from recycled paper, if the cost is not greater than 110% of the cost of paper that does not contain recycled fibers. The purchase of recycled paper shall be phased in over a 3-year period pursuant to the following percentages:

	Percentage of total paper purchased	Percentage of wastepaper contained in recycled paper
Year		
1989	30%	25
1990	40%	35
1991 and each year thereafter	50%	50

(2) The directives of the department issued under section 261(2) that apply to the procurement of paper products shall require that all paper products, to the extent available, purchased or contracted for by the department shall be made from recycled paper to comply with the 3-year phase-in requirements provided for in this section.

(3) The department shall investigate whether it is feasible and desirable to require that recycled paper products purchased by the department be labeled as being made of recycled paper.

(4) The department shall maintain records to document by commodity type recycled paper purchased or contracted for by the department.

(5) As used in this section and section 273:

(a) "Recycled paper" means a paper product that contains not less than 25% wastepaper in 1989, 35% wastepaper in 1990, and 50% wastepaper in 1991 and each year thereafter.

(b) "Wastepaper" means discarded paper that is generated after the completion of the paper manufacturing process, and includes, but is not limited to, trimmings, printed paper, cutting and converting paper, and post-consumer paper. Wastepaper does not include mill broke or other in-plant residual wastes.

History: Add. 1988, Act 412, Eff. Mar. 30, 1989

Popular Name: Act 431

Popular Name: DMB

18.1261c Wood or paper products from sustainably managed forests or procurement systems.

Sec. 261c.

(1) Beginning October 1, 2006, in addition to the requirements of sections 261, 261a, and 261b, in purchasing wood or paper products the department shall give preference to wood or paper products that derive from sustainably managed forests or procurement systems.

(2) Paper product and forest product companies purchasing raw materials from or through third parties may reasonably rely upon the representations of landowners, vendors, or brokers as to whether the raw materials derive from sustainably managed forests or procurement systems.

(3) As used in this section, "sustainably managed forests or procurement systems" means forests or procurement systems that are certified by an independent third party using 1 or more of the following certification programs:

- (a) The sustainable forestry initiative/American forest and paper association.
- (b) The American tree farm systems/American forest foundation.
- (c) The Canadian standards associations sustainable forest management system standards.
- (d) The forest stewardship council.
- (e) The Pan-European forest certification.
- (f) The Finnish forest certification system.
- (g) The United Kingdom woodlands assurance scheme.
- (h) International standards organization (ISO) standard 14001.

History: Add. 2004, Act 249, Eff. Mar. 30, 2005

Popular Name: Act 431

Popular Name: DMB

18.1261d Products containing mercury or mercury compounds; purchase; limitation.

Sec. 261d.

In addition to the requirements of section 261, the department and all state agencies shall, whenever possible, avoid purchasing products containing mercury or mercury compounds if products that do not contain mercury or mercury compounds are available and those products are cost effective as determined by the department.

History: Add. 2008, Act 193, Imd. Eff. July 11, 2008

Popular Name: Act 431

Popular Name: DMB

18.1261e Information technology projects; requirements.

Sec. 261e.

Not later than October 1, 2021, the department of technology, management, and budget shall do all of the following for each information technology project exceeding \$250,000.00:

(a) Establish and document a process for accounting for and monitoring of project cost that aligns with industry best practices and includes all of the following:

(i) Identification and monitoring of cost overruns.

(ii) Change orders and accounting for projects that exceed 1 fiscal year.

(b) Communicate process and defined roles to involved parties.

(c) Ensure information technology project spending within the information technology fund is accurately tracked and accounted for, including costs for contractors, state employees, hardware, software, and maintenance.

(d) Require each state agency to provide and report any additional technology project spending outside of the information technology fund is accurately tracked and accounted for, including costs for contractors, state employees, hardware, software, and maintenance.

(e) Require each state agency to report on system-related contracts or projects with specific appropriations to ensure funds are only spent on the development and maintenance of that system.

History: Add. 2020, Act 181, Imd. Eff. Oct. 8, 2020

Popular Name: Act 431

Popular Name: DMB

18.1261f Information technology system development vendor contract or maintenance project; audit.

Sec. 261f.

When the auditor general selects an information technology system development vendor contract or maintenance project described under section 261e for audit or investigation, the auditor general shall also validate the department's compliance with select processes and best practice standards and use the audit criteria in section 261e when appropriate and applicable.

History: Add. 2020, Act 182, Imd. Eff. Oct. 8, 2020

Popular Name: Act 431

Popular Name: DMB

18.1262 Limiting solicitation to prequalified vendors.

Sec. 262.

The department may limit a solicitation to prequalified vendors to meet statutory or licensing requirements applying to the solicitation or when the time necessary to verify vendor qualifications would jeopardize timely award of contracts.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988

Popular Name: Act 431

Popular Name: DMB

18.1263 Purchase of supplies and materials by state agency to maintain inventories; authorization; limitation; charging appropriation accounts; periodic inventories; obsolescence, damage, or spoilage; fee for purchasing services assistance; cooperative bulk purchasing program for schools and school districts.

Sec. 263.

(1) The director may authorize a state agency to purchase supplies and materials for the purpose of maintaining inventories. The director shall place a dollar or quantity limitation to insure inventories are maintained at acceptable levels. Appropriation accounts shall be charged upon the basis of actual usage. Any state agency so authorized shall conduct periodic inventories as directed by the director of all supplies and materials under their control. Obsolete, damaged, or spoiled supplies and materials shall be charged to the proper appropriation account during the fiscal year it is determined that obsolescence, damage, or spoilage has occurred.

(2) The department shall provide assistance to any city, village, county, township, school district, intermediate school district, nonprofit hospital, institution of higher education, or community or junior college for purchasing services on a fee basis. Fees collected for the provision of that assistance are appropriated for the additional expenses incurred.

(3) The department shall create and operate a cooperative bulk purchasing program for school districts, public school academies, nonpublic schools, and intermediate school districts on a fee basis to reduce the costs of purchasing goods and services. Fees collected under this subsection shall not exceed the cost of purchasing goods and services and reasonable administrative expenses, and are appropriated for the expenses incurred.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- 2004, Act 589, Imd. Eff. Jan. 4, 2005

Popular Name: Act 431

Popular Name: DMB

18.1264 Debarring vendor from participation in bid process and from contract award; notice; finding.

Sec. 264.

The department may debar a vendor from participation in the bid process and from contract award upon notice and a finding that the vendor is not able to perform responsibly, or that the vendor, or an officer or an owner of a 25% or greater share of the vendor, has demonstrated a lack of integrity that could jeopardize the state's interest if the state were to contract with the vendor.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988

Popular Name: Act 431

Popular Name: DMB

18.1265 Federal surplus property; acquisition and distribution.

Sec. 265.

The department shall perform the functions and necessary duties as the agency of the state in the acquisition and distribution of federal surplus property pursuant to federal law.

History: 1984, Act 431, Eff. Mar. 29, 1985

Popular Name: Act 431

Popular Name: DMB

18.1267 Personal property of state agencies; directives for disclosure, transfer, and disposal; sale at fair market value; payment of costs or assessment of handling fee; sale of surplus snow removal equipment or surplus road construction or maintenance equipment; "local road agencies" defined.

Sec. 267.

(1) The department shall issue directives to provide for the disclosure, transfer, and disposal of surplus personal property of state agencies. Except as otherwise provided in subsection (4), the department may dispose of surplus personal property by donating the surplus personal property to a nonprofit entity, or selling it to a unit of local government, or selling it at a public sale.

(2) The department may sell surplus personal property at fair market value. The department may also exchange surplus personal property for goods and services at fair market value with a private company that is contracted to provide state services, and the surplus personal property is essential to providing those services.

(3) The department may pay necessary costs incurred in the conduct of the transfers or sale of surplus personal property including the necessary warehousing and reconditioning costs from the proceeds of the sale or by assessing a handling fee for surplus personal property being donated.

(4) Beginning October 1, 2016, prior to donating, disposing of, or selling surplus snow removal equipment or surplus road construction or maintenance equipment that was owned by the state transportation department, the department shall make that equipment available for sale at fair market value to local road agencies in this state. The department shall issue directives to implement this subsection. As used in this subsection, "local road agencies" means a local road agency as that term is defined in section 9a of 1951 PA 51, MCL 247.659a.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999 ;-- Am. 2012, Act 237, Imd. Eff. June 29, 2012 ;-- Am. 2016, Act 245, Imd. Eff. June 24, 2016

Popular Name: Act 431

Popular Name: DMB

18.1268 Bidder for state contract as Michigan business; certification; significant business presence required; verification; disclosure; reciprocal preference; list of states giving preference to in-state bidders; waiver of entitlement to claim preference; fraud; felony; penalty; review; recommendations; applicability.

Sec. 268.

(1) A bidder for a state contract is a Michigan business for the purposes of this section if it certifies that it has done any of the following during the 12 months immediately preceding the bid deadline or for the period the business has been in existence, if the business is newly established within the 12 months immediately preceding the bid deadline:

(a) Filed a Michigan single business tax return or Michigan business tax return showing a portion or all of the income tax base allocated or apportioned to the state of Michigan pursuant to the former single business tax act, 1975 PA 228, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(b) Filed a Michigan income tax return showing income generated in or attributed to the state of Michigan.

(c) Withheld Michigan income tax from compensation paid to the bidder's owners and remitted the tax to the department of treasury.

(2) The filing or withholding shall be more than a nominal filing for the purpose of gaining the status of a Michigan business, but shall indicate a significant business presence in the state, considering the size of the business and the nature of its activities.

(3) A bidder certifying that it meets the criteria for a Michigan business listed in subsections (1) and (2) shall authorize the department of treasury to verify that the bidder has or has not met 1 of the 3 criteria in subsection (1). This authorization shall permit the department of treasury to disclose the verifying information to the procuring agency in accordance with the procedures established by section 28 of 1941 PA 122, MCL 205.28.

(4) Only a bidder that has certified that it is a Michigan business is entitled to have the department apply a reciprocal preference in its favor against a business that submits a bid from a state which applies a preference law against out-of-state bidders. A bidder that does not certify that it is a Michigan business shall indicate in its bid the state in which it maintains its principal place of business for the purpose of applying that state's preference law against the bidder.

(5) If the low bid for a state procurement exceeds \$100,000.00 and is from a business located in a state which applies a preference law against out-of-state businesses, the department shall prefer a bid from a Michigan business in the same manner in which the out-of-state bidder would be preferred in its home state.

(6) The department shall compile a list of states that give preference to in-state bidders and the extent of the preference and shall update the list at least annually. An agency may rely on this compilation in implementing the provisions of this act without incurring liability to any bidder.

(7) A bidder waives any entitlement to claim a preference under this act if the bidder has not certified in its bid that the bidder is a Michigan business and has not authorized the department of treasury to release information necessary to verify the entitlement.

(8) A bidder shall not fraudulently certify that it is a Michigan business under this act or falsely indicate the state in which it has its principal place of business for the purpose of avoiding application of the reciprocal preference.

(9) A business that purposefully or willfully submits a false certification that it is a Michigan business or falsely indicates the state in which it has its principal place of business is guilty of a felony, punishable by a fine of not less than \$25,000.00.

(10) Two years after October 1, 1988, the department shall review the costs and consequences of implementing this section. The department shall solicit input from the business community and from state agencies receiving procurements affected by the provisions of this section, and shall make recommendations to the legislature regarding continuation or modification of this section.

(11) This section shall not apply to any procurement if the provisions of this section would conflict with federal statute.

History: Add. 1988, Act 237, Eff. Oct. 1, 1988 ;-- Am. 2007, Act 183, Imd. Eff. Dec. 21, 2007

Popular Name: Act 431

Popular Name: DMB

18.1269 Centralized services; charges; rates; creation of office services revolving fund; inventory value of paper and stationery operation.

Sec. 269.

(1) The department shall establish, administer, operate, or provide centralized services such as the following:

(a) Duplicating, microfilming, mailing, warehousing, and drug packaging.

(b) Telecommunications.

(c) Supplying and storing of forms, publications, paper, and stationery.

(d) Off-site storage of optical discs.

(e) Other services to state agencies that are advantageous to this state, after consultation with each affected state agency.

(2) The department shall charge a state agency for a service provided to the state agency pursuant to subsection (1). A payment shall be credited to the office services revolving fund created in subsection (3). The rate charged for a service shall be coordinated, to the extent possible, with the budget cycle. The rate shall reflect the actual cost for the service provided.

(3) The office services revolving fund is created. The amounts in the office services revolving fund are continuously appropriated only for implementing subsection (1).

(4) The inventory value of the paper and stationery operation of the centralized services shall not exceed at any

given time 1/3 of the gross sales of the previous fiscal year.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1992, Act 191, Imd. Eff. Oct. 5, 1992

Compiler's Notes: For transfer of statutory authority, powers, duties, functions, and responsibilities of certain units, teams, divisions, and offices within the department of management and budget to the department of information technology by type III transfer, see E.R.O. No. 2001-1, compiled at MCL 18.41 of the Michigan compiled laws.

Popular Name: Act 431

Popular Name: DMB

18.1270 Directives for use of certain apps, software, or other technology on electronic device by state departments and agencies.

Sec. 270.

The department shall issue directives that all state departments and all state agencies must not use any app, software, or other technology that prevents it from maintaining or preserving a public record as required by law on an electronic device that is used to create a public record.

History: Add. 2021, Act 114, Imd. Eff. Nov. 22, 2021

Popular Name: Act 431

Popular Name: DMB

18.1271 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's Notes: The repealed section pertained to telecommunications systems or services.

Popular Name: Act 431

Popular Name: DMB

18.1273 Directives for printing of publications by state agency; approval of printing request; determining number and distribution of state reports and publications; style, form, binding, typography, and quality of paper; central storage; publications to be printed on recycled paper; distribution and central storage only of certain publications.

Sec. 273.

(1) The department shall issue directives for the printing of publications by any state agency. A publication that is authorized by law shall not be printed unless the request for the printing is approved by the department.

(2) Except as provided in subsection (3), the department shall provide for the determination of the precise number and distribution of all state reports and publications, shall prescribe the style, form, binding, typography, and quality of paper, and shall provide for the central storage of reports and publications in a manner provided by law. In addition, the department shall require that the publications of any state agency shall be printed on recycled paper, to the extent available, to comply with the 3-year phase-in requirements provided for in section 261b.

(3) With respect to the Michigan manual, the Public and Local Acts, the Michigan administrative code, and the Michigan register, the department shall provide for their distribution and central storage only.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1988, Act 184, Eff. July 1, 1988 ;-- Am. 1988, Act 412, Eff. Mar. 30, 1989

Popular Name: Act 431

Popular Name: DMB

18.1275 Sale of office furnishings and equipment to former governors and legislators; fair market value; use of proceeds.

Sec. 275.

The department may sell, at fair market value, to former governors and legislators, office furnishings and other equipment utilized by the governors and legislators. Personal property which was originally donated to the state by the person purchasing the property or real property or improvements to real property may be sold for its fair market value as determined by the purchasing division of the department using generally accepted valuation methods for all other property. The sale will be based on replacement value as determined by the purchasing division of the department. Proceeds from the sale may be used to replace furnishings and equipment.

History: 1984, Act 431, Eff. Mar. 29, 1985

Popular Name: Act 431

Popular Name: DMB

18.1277 Expenditure for mailing letter, newsletter, report, or other publication; conditions.

Sec. 277.

A state board or commission shall not make an expenditure for mailing a letter, newsletter, report, or other publication unless 1 or more of the following is applicable:

- (a) The mailing is required by law.
- (b) The mailing is paid for by the person to whom the mailing is addressed.
- (c) The mailing is a direct response to a specific question of the person to whom the mailing is addressed.
- (d) The mailing is specifically authorized by a majority vote of a state board or commission.
- (e) The mailing is sent to an individual or entity and seeks information necessary for a state board or commission to render a decision. This subdivision does not include a questionnaire or general letter which attempts to assist in the taking of a survey.

History: 1984, Act 431, Eff. Mar. 29, 1985

Popular Name: Act 431

Popular Name: DMB

18.1279 Consulting services.

Sec. 279.

(1) The department shall review and approve or disapprove any proposal for the acquisition of consulting services by a state agency. The department shall issue directives for the obtaining of consulting services.

(2) The department shall provide internal consulting services to state agencies in place of outside consulting assistance whenever feasible. When internal consulting services are provided to a state agency, the state agency shall be interaccount billed for the cost of the services.

(3) The department shall provide consulting assistance to units of local government and institutions of higher education on a fee basis when requested.

(4) Amounts received for services shall constitute project amounts that may be carried over to a succeeding fiscal year as necessary to complete the consulting service projects.

History: 1984, Act 431, Eff. Mar. 29, 1985

Popular Name: Act 431

Popular Name: DMB

18.1281 Contract for services; contract for personal services; reports.

Sec. 281.

(1) Before the fifteenth of each month, the department of civil service shall report to the appropriations committees and the fiscal agencies the following for each contract for services approved by the department of civil service during the previous calendar month:

- (a) The state agency contracting for the service.
- (b) The name of the individual or entity with whom the state agency is contracting.
- (c) The dollar amount of and source of financing for the contract.
- (d) The name of any individual providing contractual services to the state, whether as a special personal service employee or as the employee of an independent contractor, as certified by the contracting state agency, and who has retired under section 19a of Act No. 240 of the Public Acts of 1943, being section 38.19a of the Michigan Compiled Laws.

(2) The department of civil service shall report to the appropriations committees and the fiscal agencies before January 30 of each year the following information for contracts for personal services approved by the department of civil service during the previous fiscal year:

- (a) The state agency contracting for the service.
- (b) The name of the individual or entity with whom the state agency is contracting.
- (c) The dollar amount and source of financing for the contract.
- (d) The name of an individual providing contractual services to the state, whether as a special personal service employee or as the employee of an independent contractor, who is certified by the contracting state agency, and who has retired under section 19a of Act No. 240 of the Public Acts of 1943, being section 38.19a of the Michigan Compiled Laws.
- (e) The total number of contracts submitted by the state agencies and the total number approved.
- (f) The total dollar amount of contracts submitted by the state agencies and the total dollar amount approved.
- (g) The duration of employment of special personal service employees paid on payroll.
- (h) The total dollar amount and total number of hours a state agency contracts with an independent contractual service vendor that is paid by voucher.
- (i) The number of contracts approved to have jobs performed contractually that had been performed by classified civil service employees including the total number of positions eliminated; what provisions were made for the reemployment of the displaced employees; and what, if any, cost savings to the state were realized as a result of the contracts.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988

Popular Name: Act 431

Popular Name: DMB

18.1281a Personal service contracts; report.

Sec. 281a.

(1) The department of management and budget and each principal executive department and agency shall provide to the senate and house of representatives standing committees on appropriations and the senate and house fiscal agencies a monthly report on all personal service contracts in an amount greater than \$10,000.00 awarded without competitive bidding, pricing, or rate setting. The report shall include all of the following:

- (a) The total dollar amount of the contract.
- (b) The effective beginning and ending dates of the contract.
- (c) The name of the vendor.
- (d) The type of service to be provided.

(2) For new personal service contracts of \$100,000.00 or more, the department of management and budget shall provide a monthly report to the senate and house of representatives standing committees on appropriations and the senate and house fiscal agencies including all of the following:

- (a) The total dollar amount of the contract.

- (b) The effective beginning and ending dates of the contract.
- (c) The name of the vendor.
- (d) The type of service to be provided.

(3) Each principal executive department and agency shall provide a monthly summary listing to the senate and house of representatives standing committees on appropriations and the senate and house fiscal agencies of information that identifies any authorizations for personal service contracts that are provided to the department of civil service pursuant to delegated authority granted to each principal executive department and agency related to personal services contracts.

(4) The civil service department shall also include a report of all mixed contracts that the civil service commission did not review for approval under the authority of civil service rule 4-6.3, standard (e).

History: Add. 1999, Act 8, Imd. Eff. Mar. 22, 1999

Popular Name: Act 431

Popular Name: DMB

18.1282 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's Notes: The repealed section pertained to unclassified director.

Popular Name: Act 431

Popular Name: DMB

18.1283 Central payroll system; state budget office as tax withholding agency; payroll deductions or withholding.

Sec. 283.

(1) The state budget office shall issue directives necessary to establish and maintain the central payroll system for the periodic compensation of the officers and employees of all state agencies of all branches of state government.

(2) The state budget office shall perform such duties as required as the tax withholding agency for the state government payroll pursuant to any local, state, or federal law.

(3) The state budget office shall issue directives for the approval or disapproval of any proposal for payroll deductions or withholding other than those required by law.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 2018, Act 389, Imd. Eff. Dec. 19, 2018

Popular Name: Act 431

Popular Name: DMB

18.1283a Payroll and payments by electronic funds transfer; implementation.

Sec. 283a.

(1) Except as otherwise provided in this subsection, beginning October 1, 2005, all nonclassified state government employees payroll and payments and all elected and appointed state officials payroll and payments shall be paid by electronic funds transfer. The department of community health and the family independence agency shall implement this section October 1, 2006.

(2) Except as otherwise provided in this subsection, beginning October 1, 2005, all contracts that this state enters into for the purchase of goods or services shall provide that payment shall be made by electronic funds transfer. The department of community health and the family independence agency shall implement this section October 1, 2006.

(3) The department is encouraged to implement this section before October 1, 2005.

History: Add. 2004, Act 533, Imd. Eff. Jan. 3, 2005
Popular Name: Act 431
Popular Name: DMB

18.1284 Additional definitions.

Sec. 284.

As used in this section and sections 285 to 292:

(a) "Archival value" means records which have been selected by the department of history, arts, and libraries as having enduring worth because they document the growth and development of this state from earlier times, including the territorial period; they evidence the creation, organization, development, operation, functions, or effects of state agencies; or because they contain significant information about persons, things, problems, or conditions dealt with by state agencies.

(b) "Record" or "records" means a document, paper, letter, or writing, including documents, papers, books, letters, or writings prepared by handwriting, typewriting, printing, photostating, or photocopying; or a photograph, film, map, magnetic or paper tape, microform, magnetic or punch card, disc, drum, sound or video recording, electronic data processing material, or other recording medium, and includes individual letters, words, pictures, sounds, impulses, or symbols, or combination thereof, regardless of physical form or characteristics. Record may also include a record series, if applicable.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988 ;-- Am. 2001, Act 71, Imd. Eff. July 24, 2001
Popular Name: Act 431
Popular Name: DMB

18.1285 Records; maintenance by head of state agency; listing on retention and disposal schedule; legal custody and physical possession.

Sec. 285.

(1) The head of each state agency shall maintain records which are necessary for all of the following:

- (a) The continued effective operation of the state agency.
- (b) An adequate and proper recording of the activities of the state agency.
- (c) The protection of the legal rights of the state.

(2) The head of a state agency maintaining any record shall cause the records to be listed on a retention and disposal schedule.

(3) Legal custody and physical possession of a record shall be vested in the state agency that created, received, or maintains the record until such time as it is transferred to the state archives or is destroyed.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988
Popular Name: Act 431
Popular Name: DMB

18.1287 Records management program; purpose; duties of department; directives.

Sec. 287.

(1) The department shall maintain a records management program to provide for the development, implementation, and coordination of standards, procedures, and techniques for forms management, and for the creation, retention, maintenance, preservation, and disposition of the records of this state. All records of this state are and shall remain the property of this state and shall be preserved, stored, transferred, destroyed, disposed of,

and otherwise managed pursuant to this act and other applicable provisions of law.

(2) In managing the records of this state, the department shall do all of the following:

(a) Establish, implement, and maintain standards, procedures, and techniques of records management throughout state agencies.

(b) Provide education, training, and information programs to state agencies regarding each phase of records management.

(c) Promote the establishment of a vital records program in each state agency by assisting in identifying and preserving records considered to be critically essential to the continued operation of state government or necessary to the protection of the rights and privileges of its citizens, or both. Preservation of designated vital records shall be accomplished by storing duplicate copies of the original records in a secure remote records center to assure retention of those records in the event of disaster and loss of original records.

(d) Operate a records center or centers for the purpose of providing maintenance, security, and preservation of state records.

(e) Provide centralized microfilming service and, after the effective date of rules promulgated under the records media act, 1992 PA 116, MCL 24.401 to 24.403, to govern optical storage, service for off-site storage of optical discs as an integral part of the records management program.

(f) Provide safeguards against unauthorized or unlawful disposal, removal, or loss of state records.

(g) Initiate action to recover a state record that may have been removed unlawfully or without authorization.

(h) Establish retention and disposal schedules for the official records of each state agency with consideration to their administrative, fiscal, legal, and archival value.

(3) The department shall issue directives that provide for all of the following:

(a) The security of records maintained by state agencies.

(b) The establishment of retention and disposal schedules for all records in view of their administrative, fiscal, legal, and archival value.

(c) The submission of proposed retention and disposal schedules to the department of history, arts, and libraries, the auditor general, the attorney general, and the board for review and approval.

(d) The transfer of records from a custodian state agency to a state records center or to the custody of the department of history, arts, and libraries.

(e) The disposal of records pursuant to retention and disposal schedules, or the transfer of records to the custody of the department of history, arts, and libraries.

(f) The establishment of a records management liaison officer in each department to assist in maintaining a records management program.

(g) The cooperation of other state departments in complying with this act.

(h) The storage of records in orderly filing systems designed to make records conveniently accessible for use.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988 ;-- Am. 1992, Act 191, Imd. Eff. Oct. 5, 1992 ;-- Am. 2001, Act 71, Imd. Eff. July 24, 2001

Compiler's Notes: For transfer of powers and duties of department of history, arts, and libraries regarding state records management program to department of management and budget, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular Name: Act 431

Popular Name: DMB

18.1288 Inspection or inventory of records.

Sec. 288.

A state agency shall permit the department or the department of history, arts, and libraries, upon request, to inspect or inventory records in the custody of the agency.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988 ;-- Am. 2001, Act 71, Imd. Eff. July 24, 2001

Compiler's Notes: For transfer of powers and duties of department of history, arts, and libraries regarding state records management program to department of management and budget, see E.R.O. No. 2009-26, compiled at MCL 399.752. For transfer of powers and duties of department of history, arts, and libraries regarding state archives program to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752. For the transfer of powers and duties related to the state archives program from the department of natural resources to the department of technology, management and budget, see E.R.O. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 431

Popular Name: DMB

18.1289 Records of archival value; listings of records due for disposal; report; notice of destruction or transfer of record; action to recover records; temporary restraining order.

Sec. 289.

(1) In reviewing a draft retention and disposal schedule, the department of history, arts, and libraries shall determine whether any records listed on the schedule possesses archival value and may disapprove or may require modification of a schedule which proposes the destruction of a record possessing archival value.

(2) In cooperation with the department of history, arts, and libraries, the department shall periodically provide the department of history, arts, and libraries with listings of all records in the custody of the records center that are due for disposal before releasing those records for destruction. Within 30 days after receiving these lists, the department of history, arts, and libraries shall report in writing to the records center regarding each list submitted, and may disapprove the destruction of any or all of the records listed. Any record that is considered to potentially have archival value by the department of history, arts, and libraries shall not be destroyed or otherwise disposed of but shall be transferred to the department of history, arts, and libraries.

(3) The department shall notify the state agency that created a record before its destruction or transfer to the state archives.

(4) The department of history, arts, and libraries may initiate legal action in circuit court to recover records possessing archival value when there is reason to believe that records have been improperly or unlawfully removed from state custody. Upon initiation of any action, the court may issue a temporary restraining order preventing the sale, transfer, or destruction of a record pending the decision of the court.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988 ;-- Am. 2001, Act 71, Imd. Eff. July 24, 2001

Compiler's Notes: For transfer of powers and duties of department of history, arts, and libraries regarding state records management program to department of management and budget, see E.R.O. No. 2009-26, compiled at MCL 399.752. For transfer of powers and duties of department of history, arts, and libraries regarding state archives program to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752. For the transfer of powers and duties related to the state archives program from the department of natural resources to the department of technology, management and budget, see E.R.O. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 431

Popular Name: DMB

18.1292 Responsibilities of department of history, arts, and libraries.

Sec. 292.

This act shall not be construed to prevent the department of history, arts, and libraries from exercising its responsibilities to ensure that records possessing historical value are protected and preserved in the state archives.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988 ;-- Am. 2001, Act 71, Imd. Eff. July 24, 2001

Compiler's Notes: For transfer of powers and duties of department of history, arts, and libraries regarding state records management program to department of management and budget, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular Name: Act 431

Popular Name: DMB

18.1293 Definitions.

Sec. 293.

As used in this section and sections 294 to 297:

(a) "Committee" means the committee on the purchase of goods and services from community rehabilitation organizations created in section 295.

(b) "Community rehabilitation organization" means a nonprofit charitable organization or institution incorporated in this state that is operated for the purpose of carrying out a recognized program of employment and training

services for people with disabilities.

(c) "Fair market price" means the price established by the committee for goods or services to be purchased from community rehabilitation organizations based upon 1 or more of the following:

- (i) Available information from reliable market sources.
- (ii) A market survey conducted by a person designated by the committee.
- (iii) Previous contract prices adjusted for market conditions.
- (iv) The range of bids from the most recent solicitation, including a determination of the median price, average price, and any market conditions that have changed since the most recent solicitation.
- (v) Cost analysis.
- (vi) Other methods as determined by the committee.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 2010, Act 372, Imd. Eff. Dec. 22, 2010

Popular Name: Act 431

Popular Name: DMB

18.1294 Purchase of goods and services from community rehabilitation organizations; preferred status.

Sec. 294.

(1) To advance the employment of people with disabilities, community rehabilitation organizations shall have preferred status for the purposes of procurement in accord with the provisions of this section. The department's procurements of goods and services from community rehabilitation organizations are exempt from other competitive procurement requirements of this act and, to the extent possible, exempt from other competitive procurement statutes and executive orders. This subsection does not prohibit the department from applying competitive bid requirements to select among community rehabilitation organizations for the purchase of goods and services.

(2) The department shall purchase goods and services that are manufactured or provided by community rehabilitation organizations in this state pursuant to sections 293 to 297.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 2010, Act 372, Imd. Eff. Dec. 22, 2010

Popular Name: Act 431

Popular Name: DMB

18.1295 Committee on purchase of goods and services from community rehabilitation organizations; creation; appointment, qualifications, and terms of members; compensation.

Sec. 295.

The committee on the purchase of goods and services from community rehabilitation organizations is created within the department and shall consist of 6 members appointed by the governor. The members shall serve for a term of 2 years. The committee shall consist of 1 member from the purchasing division of the department, 1 member from Michigan rehabilitation services, 1 member from the commission on disability concerns, 1 member, who shall serve as the chairperson of the committee, from a statewide nonprofit corporation concerned with community rehabilitation organizations, and 2 members at large. Members of the committee shall serve without compensation.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 2010, Act 372, Imd. Eff. Dec. 22, 2010

Popular Name: Act 431

Popular Name: DMB

18.1296 Duties of committee.

Sec. 296.

The committee shall do all of the following:

- (a) Meet as often as necessary, but at least quarterly, to carry out its duties.
- (b) Coordinate and monitor the implementation of sections 293 to 297.
- (c) Identify, review, and recommend approval or disapproval to the state administrative board of requests from community rehabilitation organizations to provide goods and services for purchase by the department.
- (d) Establish eligibility criteria for participating community rehabilitation organizations, including criteria that demonstrate the ability to perform the requirements of the contract and establish that the majority of the direct labor hours required to fulfill the contract are performed by individuals with significant disabilities as that phrase is defined in 29 USC 705(21)(A).
- (e) At least annually, in cooperation with the department, establish and review fair market prices and methods for establishing fair market prices for goods and services to be purchased from community rehabilitation organizations.
- (f) Establish procedures regarding the functions and operations of the committee.
- (g) Prepare an annual report depicting the activities related to this section that includes, at a minimum, all of the following:
 - (i) A summary of products and services purchased by the department from community rehabilitation organizations.
 - (ii) The names of community rehabilitation organizations participating.
 - (iii) The impact of this section upon production, work stabilization, program development, and the number of persons with a disability served by community rehabilitation organizations.
 - (iv) An indication of the areas to which and the amounts for which the budget of the committee was allocated.
- (h) At least annually conduct a review of the prices paid by the department for the goods and services provided by community rehabilitation organizations and make any adjustments necessary to establish new fair market prices.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 2010, Act 372, Imd. Eff. Dec. 22, 2010

Popular Name: Act 431

Popular Name: DMB

18.1297 Priority of selection; specifications; sale of goods and services to other governmental agencies or private businesses.

Sec. 297.

- (1) For the purposes of identifying those goods or services or both to be provided by community rehabilitation organizations, first priority of selection shall be given to those goods or services or both currently purchased by the department from commercial businesses outside this state. Next selection priority shall be given to those goods or services or both purchased from commercial businesses within this state. If upon review of the current bids or fair market price of both priorities of goods or services or both, the committee finds that community rehabilitation organizations can provide equal goods or services to the department within current bids or fair market price, then those goods or services or both shall be set aside for exclusive provision by community rehabilitation organizations for purchase by the purchasing division of the department.
- (2) All goods and services purchased by the department from community rehabilitation organizations shall meet the specifications regarding quality, function, and quantity established and published by the department.
- (3) This section does not prevent community rehabilitation organizations from selling goods and services to other governmental agencies or private businesses of their choosing.

History: 1984, Act 431, Eff. Mar. 29, 1985 ;-- Am. 2010, Act 372, Imd. Eff. Dec. 22, 2010

Popular Name: Act 431

Popular Name: DMB

18.1298 Repealed. 2013, Act 243, Eff. Mar. 14, 2014.

Compiler's Notes: The repealed section pertained to the creation and powers and duties of Michigan capitol park commission.
Popular Name: Act 431
Popular Name: DMB

18.1298a Repealed. 2013, Act 243, Eff. Mar. 14, 2014.

Compiler's Notes: The repealed section pertained to compliance with open meetings act and freedom of information act.
Popular Name: Act 431
Popular Name: DMB

18.1298b Michigan veterans' memorial park; designation; jurisdiction under Michigan veterans' memorial park commission; easement.

Sec. 298b.

The following real property is designated the Michigan veterans' memorial park and is under the jurisdiction of the Michigan veterans' memorial park commission:

Commencing at the E 1/4 corner of Section 17, T4N, R2W, City of Lansing, Ingham County, Michigan; thence westerly approximately 470 feet, on the E-W 1/4 line of said Section 17 to the point of beginning; thence southerly approximately 295 feet, to the right-of-way line of the proposed Capitol Loop; thence approximately 840 feet, on the arc of a curve to the right with a central angle of approximately 160 degrees and a radius of approximately 300 feet on said right-of-way; thence southerly approximately 295 feet, to the point of beginning, containing 2.5 acres, more or less. The described parcel is subject to any easement or right of record pertaining to that parcel.

History: Add. 1988, Act 306, Eff. Sept. 1, 1988 ;-- Am. 1992, Act 132, Imd. Eff. July 9, 1992 ;-- Am. 2013, Act 243, Eff. Mar. 14, 2014
Popular Name: Act 431
Popular Name: DMB

18.1298c Repealed. 2013, Act 243, Eff. Mar. 14, 2014.

Compiler's Notes: The repealed section pertained to duties of Michigan capitol park commission.
Popular Name: Act 431
Popular Name: DMB

18.1298d Repealed. 2013, Act 243, Eff. Mar. 14, 2014.

Compiler's Notes: The repealed section pertained to powers of Michigan capitol park commission.
Popular Name: Act 431
Popular Name: DMB

18.1298e Repealed. 2013, Act 243, Eff. Mar. 14, 2014.

Compiler's Notes: The repealed section pertained to disposition of fees received by Michigan capitol park commission.
Popular Name: Act 431
Popular Name: DMB

18.1299 Office of state budget director; higher education institutional data inventory advisory committee; membership; review and audits; auditor general report.

Sec. 299.

- (1) The office of the state budget director shall do all of the following:
 - (a) Establish, maintain, and coordinate the state higher education database commonly known as the higher education institutional data inventory or "HEIDI".
 - (b) Collect data concerning public universities and public university programs in this state, including data required by law, and include it in the database.
 - (c) Establish procedures to ensure the validity and reliability of the data and the collection process.
 - (d) Develop model data collection policies, including, but not limited to, policies that ensure the privacy of individual student data. Privacy policies shall ensure that student social security numbers are not released to the public for any purpose.
 - (e) Provide data in a useful manner to allow state policymakers and public university officials to make informed policy decisions.
 - (f) Assist public universities in complying with audits under this section or federal law.
 - (g) Perform other functions assigned by the state budget director or required by law.
- (2) There is created within the office of the state budget director in the department the higher education institutional data inventory advisory committee. The committee shall provide advice to the state budget director regarding the management of the state higher education database, including, but not limited to:
 - (a) Determining what data is necessary to collect and maintain.
 - (b) Defining the roles of all stakeholders in the data collection system.
 - (c) Recommending timelines for the implementation and ongoing collection of data.
 - (d) Establishing and maintaining data definitions, data transmission protocols, and system specifications and procedures for the efficient and accurate transmission and collection of data.
 - (e) Establishing and maintaining a process for ensuring the accuracy of the data.
 - (f) Establishing and maintaining policies related to data collection, including, but not limited to, privacy policies related to individual student data.
 - (g) Ensuring the data is made available to state policymakers and citizens of this state in the most useful format possible.
 - (h) Addressing other matters as determined by the state budget director or as required by law.
- (3) The higher education institutional data inventory advisory committee created in subsection (2) shall consist of the following members:
 - (a) One representative from the house fiscal agency, appointed by the director of the house fiscal agency.
 - (b) One representative from the senate fiscal agency, appointed by the director of the senate fiscal agency.
 - (c) One representative from the office of the state budget director, appointed by the state budget director.
 - (d) Three representatives of the presidents council of state universities, appointed by the presidents council. The presidents council shall appoint 1 representative each from a master's university, a doctoral university, and a research university.
- (4) The auditor general shall review higher education institutional data inventory enrollment data submitted by all public universities and shall perform audits of selected data submitted by public universities at least once every 4 years. The review and audits shall be based upon the definitions, requirements, and uniform reporting categories established by the state budget director in consultation with the higher education institutional data inventory advisory committee. The auditor general shall submit a report of findings to the house and senate appropriations committees and the state budget director by July 1 of each year in which an audit is performed.

History: Add. 2006, Act 95, Imd. Eff. Apr. 4, 2006 ;-- Am. 2018, Act 389, Imd. Eff. Dec. 19, 2018
Popular Name: Act 431
Popular Name: DMB