

STATE OF MICHIGAN
COURT OF CLAIMS

LG-SOLUTIONS, LLC,

Plaintiff,

v

MICHIGAN DEPARTMENT OF
TECHNOLOGY, MANAGEMENT, AND
BUDGET and MICHIGAN STATE POLICE,

Defendants.

OPINION AND ORDER

Case No. 24-000135-MZ

Hon. James Robert Redford

**OPINION AND ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY
DISPOSITION AND DENYING PLAINTIFF'S MOTION FOR SUMMARY
DISPOSITION**

Plaintiff filed suit against defendants, asserting that their conduct during a request-for-proposal process violated Michigan's Antitrust Act. For the reasons set forth below, the Court DENIES plaintiff's motion for summary disposition and GRANTS defendants' motion for summary disposition.

I. BACKGROUND

On January 19, 2023, DTMB published RFP 230000000685 (23-685) for a "Contractor to provide a web-based service to dispatch towing services as needed by the Michigan State Police" (MSP) in Wayne, Oakland, and Macomb Counties. Plaintiff, LG-Solutions Unlimited, a Michigan black-owned corporation, had developed a web-based mobile phone app to connect people requesting a tow with tow truck providers. Plaintiff and Vehicle Management Solutions, LLC

(VMS), a New York corporation, were the only two bidders, and DTMB published a notice (NIA 240000000539 or 24-539) indicating its intent to award the contract to VMS.

On August 2, 2024, plaintiff submitted a written bid protest, contending defendants failed to give preference to a Michigan-based company as required by statute and regulation. MCL 18.1261(1) provides in relevant part that DTMB must contract for the provision of services for state agencies and “all other things being equal, preference shall be given to products manufactured or services offered by Michigan-based firms.”¹ Michigan’s Procurement Policy Manual includes the same requirement. Plaintiff’s protest was based on DTMB’s failure to note the preference it was required to give its bid, among other claims. Plaintiff asserted that VMS had violated antitrust laws, and “cooked the books” to make its proposal appear to be the best value.

On August 6, 2024 and August 7, 2024, plaintiff filed FOIA requests with the Department of Transportation, DTMB, and MSP. Plaintiff claims DTMB threatened to publish its bid proposal in response. The document attached to the complaint, however, indicated that plaintiff had submitted a confidentiality form with its bid proposal. It appears that the bid would be released

¹ MCL 18.12261 states, in relevant part:

(1) The department shall provide for the purchase of, the contracting for, and the providing of . . . services . . . 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

(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: [not relevant here].

with the FOIA request and DTMB asked for a redacted copy of the bid or the “bid will be published as it was received.” On August 15, 2024, DTMB cancelled RFP 23-685 and NIA 24-539.

In its first amended complaint, plaintiff accused defendants of violating MCL 445.772, MCL 445.773, and MCL 445.778 of the Michigan Antitrust Act by engaging in bid-rigging and conspiracy; failing to give plaintiff preference as a Michigan-based, black-owned business; failing to investigate VMS as required by the procurement manual; and cancelling the RFP without investigating plaintiff’s allegations of fraud and before providing a written response to plaintiff’s protest. Without alleging a FOIA violation, plaintiff alleged it feared documents related to the process have been or will be destroyed. Plaintiff also contended it would be irreparably harmed if its bid was published because it contains trade secrets.

Defendants did not answer the complaint, filing a motion for summary disposition instead. Plaintiff filed a motion for summary disposition two hours before defendants, seeking summary disposition based solely on defendants’ lack of an answer.

The Court DENIES plaintiff’s motion.

Plaintiff subsequently filed a motion to request discovery, which defendants claimed was premature given the competing summary disposition motions. Most recently, plaintiff filed a motion for a temporary restraining order (TRO) to prevent the publication of a new RFP for a statewide tow services mobile app.

II. DEFENDANTS ARE EXEMPT FROM SUIT UNDER THE ANTITRUST ACT

MCL 445.774(3) of the Michigan Antitrust Act states that the Act “shall not be construed to prohibit, invalidate, or make unlawful any act or conduct of any unit of government, when the

unit of government is acting in a subject matter area in which it is authorized by law to act.” The Court of Appeals has explained that this exemption is very broad:

We believe that the statutory language employed by the Legislature in MCL 445.774(3) . . . is plain and unambiguous and that the Court of Claims correctly ruled that defendants’ actions were exempted. The exception states that “any unit of government” is excepted from the provisions of the ARA “when the unit of government is acting in a subject matter area in which it is authorized by law to act. . . .” As for the “subject matter area” categorization, we conclude that these words establish an intentionally general region of authority, the extent or scope of which is determined by a legislative grant of authority. “Subject matter” is defined by *Webster’s New World Dictionary of the American Language*, Second College Edition (1984), p 1418, as “the thing or things considered in a book, course of instruction, discussion, etc.” If an applicable underlying statute either explicitly or impliedly gives the governmental unit the power to act in a specific area, then the governmental unit can be said to have been granted by law the substantive authority to act on “things” or matters falling within that given area. Further, the statute unambiguously states that the nature of the governmental act or conduct is irrelevant to a determination whether the exception applies. The exemption indicates that the state’s antitrust statutes do not apply to “any act or conduct” undertaken by the governmental unit, as long as the focus of that behavior is on a matter falling within the authorized subject-matter area. The adjective any clearly signals that the category it is identifying will be all-inclusive. Definitions of the word “any” include “without limit” and “every.” [*Id.* at 62.] This intentionally chosen statutory language evidences a legislative desire not to restrict the applicability of the exception to only those actions that fall undeniably within the statutory grant of power. [*Bio-Magnetic Resonance, Inc v Dep’t of Public Health*, 234 Mich App 225, 230-232; 593 NW2d 641 (1999).]

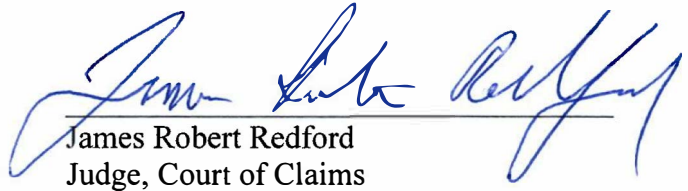
The RFP process constitutes acts by a governmental unit in a subject matter area authorized by law. Therefore, defendants are exempt from liability under the Antitrust Act for their roles in the RFP process. Plaintiff attempts to avoid the exemption by citing MCL 445.778(2), which states, “Any other person threatened with injury or injured directly or indirectly in his or her business or property by a violation of this act may bring an action for appropriate injunctive or other equitable relief. . . .” However, nothing in MCL 445.778(2) trumps the state’s exemption

from liability under MCL 445.774(3). Defendants are exempt from suit under the Antitrust Act and the Court GRANTS defendants' motion for summary disposition on that basis.²

IT IS ORDERED:

1. Plaintiff's motion for summary disposition is DENIED, and defendants' motion for summary disposition is GRANTED.
2. The Court DISMISSES plaintiff's complaint with prejudice.
3. This is a final order resolving all issues in this case.

Date: March 5, 2025


James Robert Redford
Judge, Court of Claims



² Given the Court's resolution of this issue, plaintiff's motions for discovery and a TRO are MOOT and the Court will not consider them.

