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For more information contact:

Elise Bean, elise.bean@wayne.edu

Strong State Oversight Needed for COVID-19 Contracting

Levin Center Issues Three Case Studies

In a first-of-its kind [report](#) released today, the Levin Center at Wayne State University Law School presents three case studies that examine oversight inquiries by state legislatures into problems with emergency state contracts issued to combat the COVID-19 pandemic.

“Good government requires good oversight at all levels, but we don’t often focus on our state legislatures,” said former U.S. Sen. Carl Levin, chair of the Levin Center at Wayne Law which works to foster fact-based, bipartisan, legislative oversight. “When facing an emergency like the pandemic, where executive power is at its peak and governors can issue no-bid contracts directing massive spending, strong state legislative oversight is critical to ensuring good governance and wise use of taxpayer dollars.”

The case studies presented in the 40-page Levin Center report examine COVID-related emergency spending in ten states related to the procurement of COVID testing services, masks for first responders, and consulting services to facilitate the payment of unemployment insurance benefits or the reopening of communities. The ten states are California, Florida, Illinois, Iowa, Missouri, Nebraska, Ohio, Utah, Washington, and West Virginia. The research into their emergency contracts took place from June to September 2020.

The case studies demonstrate that, currently, state legislatures exercise haphazard and uneven oversight of COVID-related emergency state contracts, while also exhibiting potential for enhanced oversight that could improve state contracting practices. Based upon its research, the report makes the following five factual findings and three recommendations.

Factual Findings

- (1) States are Collectively Spending Billions of Dollars on Emergency COVID-Related Contracts.** States are collectively spending billions of taxpayer dollars on no-bid, emergency contracts issued to private sector corporations to deal with COVID-related problems.

- (2) COVID-Related Contracts Have Raised Multiple Concerns.** Some COVID-related no-bid, emergency contracts issued by states have raised substantial concerns including unreliable contractors, excessive prices, substandard goods or services, delayed deliveries, or a lack of transparency.
- (3) State Legislative Oversight of COVID-Related Contracts Has Been Haphazard and Uneven.** The failure of some state legislatures to make contract oversight an explicit committee responsibility and the frequent lack of established mechanisms to oversee contract bidding procedures, pricing, and performance have made it difficult for many state legislatures to oversee no-bid COVID-related contracts issued on an emergency basis and have resulted in haphazard and uneven oversight efforts.
- (4) State Legislative Contract Oversight Has Occurred Whether the Legislators and Governors Were from the Same or Different Political Parties.** The case studies show that legislative oversight efforts have occurred when the legislators and governor were from the same political party as in Utah and California or from different political parties as in Iowa and Nebraska.
- (5) Short Legislative Sessions Have Hampered Contract Oversight.** Some state legislatures operate for limited periods of time during the year making contract oversight difficult, especially if special legislative sessions can be called only by the governor.

Recommendations

- (1) Elevate Contract Oversight.** State legislatures should treat oversight of contracts involving substantial taxpayer funds as a key responsibility.
- (2) Establish Contract Oversight Mechanisms.** State legislatures should assign contract oversight responsibility to specific committees and establish mechanisms to facilitate oversight of contract bidding procedures, pricing, and performance, particularly for large, no-bid contracts issued on an emergency basis.
- (3) Enable Year-Long Oversight.** State legislatures should establish mechanisms to facilitate contract oversight even when the legislature as a whole is out of session.

Today's report builds upon a 2019 [report](#) by Wayne State University's Center for Urban Studies which the Levin Center commissioned to examine the legislative oversight track record in each of the 50 states. That report determined, among other findings, that most state legislatures exercise minimal oversight of state contracts and need to strengthen that aspect of their work.

The [Levin Center at Wayne Law](#) was founded to honor Senator Levin's 36-year legacy of conducting bipartisan, fact-based, high-quality oversight in the U.S. Senate. The Center is headquartered at Wayne State University Law School, but its report does not present the institutional views, if any, of either the university or the law school.