

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2782 Session of  
2008

INTRODUCED BY DERMODY, FRANKEL, MAHER, J. WHITE, FAIRCHILD,  
HARKINS, STABACK, CALTAGIRONE, PALLONE, SOLOBAY, PASHINSKI,  
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SEPTEMBER 23, 2008

REFERRED TO COMMITTEE ON STATE GOVERNMENT, SEPTEMBER 23, 2008

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated  
2 Statutes, providing for information technology procurement.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Section 501 of Title 62 of the Pennsylvania  
6 Consolidated Statutes is amended by adding a definition to read:

7 § 501. Definitions.

8 The following words and phrases when used in this chapter  
9 shall have the meanings given to them in this section unless the  
10 context clearly indicates otherwise:

11 \* \* \*

12 "Information technology." Includes information technology  
13 products, software, computer-based services and consulting  
14 services.

15 \* \* \*

16 Section 2. Title 62 is amended by adding a section to read:

17 § 519.1. Information technology procurement.

1     (a) Competition and neutrality.--The policies and procedures  
2 covering an agency's acquisition of information technology shall  
3 rely on marketplace competition among different technologies and  
4 shall be neutral with respect to potential contractors and their  
5 different business models. To assure technology-based  
6 competition and procurement neutrality, each Commonwealth agency  
7 shall:

8         (1) Evaluate the overall value of a potential  
9 contractor's proposal consistent with the agency's reasonably  
10 articulated and factually substantiated operational  
11 objectives for the project that shall not provide for a  
12 preference for a particular information technology solution  
13 or combination of information technology solutions. Overall  
14 value shall be derived from factors including, but not  
15 limited to, life-cycle costs which evaluate total cost of  
16 ownership, the quality and capabilities of products, software  
17 or services to be delivered, contractor responsiveness and  
18 service, speed-to-market and a contractor's willingness to  
19 share risk with regard to meeting performance requirements.

20         (2) Clearly state in requests for proposals any  
21 interoperability requirements and allow potential contractors  
22 to meet these requirements via any technologically feasible  
23 and operationally reasonable means.

24         (3) Not establish a preference among potential  
25 contractors or available information technology based on a  
26 contractor's business model or an information technology  
27 licensing model.

28         (4) Allow a contractor to exercise its intellectual  
29 property rights to the full extent permitted under the law,  
30 including, but not limited to, the contractor's ability to

1     retain intellectual property rights in information technology  
2     to be delivered to, or to be codeveloped under its contract  
3     with, the agency.

4     (b) Violations.--A violation of this section shall be  
5     grounds for a successful protest consistent with the procedures  
6     set forth under this part.

7     Section 3. This act shall take effect in 60 days.