

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2360 Session of 2010

INTRODUCED BY YUDICHAK, WAGNER, FREEMAN, CARROLL, BOYD, BRIGGS,
ELLIS, FABRIZIO, GOODMAN, GROVE, GRUCELA, HARHAI, HENNESSEY,
HESS, HORNAMAN, W. KELLER, KORTZ, MATZIE, MURT, O'NEILL,
K. SMITH, SOLOBAY, SWANGER AND WANSACZ, MARCH 19, 2010

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 19, 2010

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, defining "request for quote"; providing for
3 additional duties of the Department of General Services and
4 for duties of other Commonwealth agencies; and further
5 providing for retention of procurement records.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 103 of Title 62 of the Pennsylvania
9 Consolidated Statutes is amended by adding a definition to read:

10 § 103. Definitions.

11 Subject to additional definitions contained in subsequent
12 provisions of this part which are applicable to specific
13 provisions of this part, the following words and phrases when
14 used in this part shall have the meanings given to them in this
15 section unless the context clearly indicates otherwise:

16 * * *

17 "Request for quote." A request sent by a buyer to one or
18 more sellers for the pricing and availability of a defined

1 quantity of specific items.

2 * * *

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

4 § 321.1. Additional duties.

5 The department shall:

6 (1) Ensure that Commonwealth agencies, prior to entering
7 into a contract, perform a detailed analysis as to whether a
8 project should be completed in-house or by a contractor. The
9 analysis must include determining the resources needed for
10 the agency to perform the project in-house, including the
11 hiring of information technology staff.

12 (2) Require Commonwealth agencies to include adequate
13 knowledge transfer provisions in information technology
14 contracts.

15 (3) Require Commonwealth agencies to receive the
16 appropriate amount of knowledge transfer and to maximize the
17 use of in-house information technology staff to perform
18 maintenance and upgrades on systems to reduce the need for
19 maintenance contracts with one bidder.

20 (4) For each Commonwealth agency, identify and report to
21 the Governor on an annual basis any need for additional
22 information technology staff.

23 (5) Ensure that Commonwealth agencies develop written
24 policies and procedures to document a comprehensive request
25 for proposal preparation, review and approval methodology,
26 including the approval of all reviewers of the request for
27 proposal, within the contract procurement file and to
28 document a formal methodology for selecting evaluation
29 committee members.

30 (6) Ensure that Commonwealth agencies provide written

1 instructions for completing detailed scoring sheets to the
2 evaluation committee members, including requirements such as
3 signing the scoring sheets, writing comments and documenting
4 score adjustments.

5 (7) Ensure that Commonwealth agencies formally document
6 all evaluation committee meetings within the contract
7 procurement file.

8 (8) Ensure that Commonwealth agencies conduct a
9 preproposal conference for each request for proposal or
10 request for quote issued or formally document the
11 justification as to why a preproposal conference is not
12 necessary.

13 (9) Ensure that Commonwealth agencies retain key
14 procurement documents within the procurement file for the
15 appropriate retention period.

16 (10) Ensure that Commonwealth agencies maintain detailed
17 documentation to support justification of the use of sole
18 source procurement. A notation of "due to previous experience
19 with the contractor" or "due to a tight time frame" in the
20 absence of additional documentation shall not be considered
21 sufficient documentation for the purposes of this paragraph.

22 (11) Ensure that emergency procurements are necessary
23 due to a threat to public health, welfare or safety or due to
24 circumstances outside the control of the Commonwealth agency,
25 and the reason for the emergency is well documented.

26 (12) Ensure that Commonwealth agencies maintain detailed
27 documentation to support the justification of change orders.

28 (13) Monitor change orders to contracts to ensure that
29 they are justified and properly approved.

30 (14) Ensure that Commonwealth agencies analyze and

1 document the potential use of alternate vendors.

2 (15) Ensure that Commonwealth agencies obtain the proper
3 approvals on the appropriate procurement forms.

4 (16) Ensure that agencies enter all contracts and
5 related change order and amendment information into the
6 online sourcing and procurement system to ensure complete
7 accountability of all contracts.

8 (17) Require that Commonwealth agencies enter detailed
9 expenditure information, including descriptions, into the
10 online sourcing and procurement system at the time of payment
11 to ensure better tracking and accountability of expenditures
12 by contract.

13 (18) Monitor expenditures, including facility costs, to
14 ensure that services do not overlap between contracts and
15 that overbilling does not occur.

16 (19) Ensure that vendors are not improperly benefiting
17 from the misapplication of the law governing Department of
18 Community and Economic Development grant moneys and the job
19 creation tax credit program.

20 (20) Ensure that Commonwealth agencies have standard
21 operating procedures for information technology procurement.

22 (21) Review Commonwealth agencies' information
23 technology procurement standard operating procedures to
24 ensure effectiveness and compliance with law and policy.

25 (22) Monitor the results and scoring of Commonwealth
26 agencies' proposal evaluation committees.

27 (23) Review procedures relating to information
28 technology contract procurements and monitor the results to
29 ensure an independent and unbiased environment.

30 (24) Ensure that the Office of Information Technology in

1 the Commonwealth's Office of Administration:

2 (i) Excludes an employee with the potential for or
3 the appearance of a conflict of interest from
4 participating on any contract evaluation committee.

5 (ii) Develops standard operating procedures for
6 review and approval of information technology
7 procurements and contract changes over \$100,000.

8 (iii) Documents its review of information technology
9 procurements and contract changes, including detailed
10 comments and decision-making process of the reviewers,
11 sign-offs by the reviewers and sign-offs of any person
12 providing final approval.

13 (iv) Improves its recordkeeping to ensure that
14 documentation of reviews and approvals of information
15 technology procurements and contract changes can be
16 retrieved in a timely manner.

17 (v) Reviews and approves information technology
18 requests for proposals, requests for quotes, sole source
19 procurement requests, emergency contracts and contract
20 changes more than \$100,000 in accordance with Executive
21 Order 2004-8.

22 (vi) Adequately monitors the chief information
23 officers of Commonwealth agencies to ensure that minimum
24 requirements for the position are met.

25 (25) Audit Commonwealth agencies' information technology
26 contracting processes and expenditures on a regular basis.

27 (26) Immediately investigate allegations of impropriety
28 regarding the awarding of contracts.

29 (27) Develop and enforce ethical standards that require
30 State employees who procure goods and services on behalf of

1 the Commonwealth, including those who participate in proposal
2 evaluation committees or approve contracts, to refrain from
3 all direct or indirect relationships with any individual or
4 enterprise that does business with the Commonwealth.

5 (28) Develop education, training and experience
6 requirements for individuals to be selected for a proposal
7 evaluation committee.

8 (29) Develop a policy stipulating time frames for review
9 and approval of large procurements or contracts.

10 (30) Review and certify that each Commonwealth agency's
11 procurement process is in compliance with laws and
12 regulations to ensure transparency. If deficiencies are
13 noted, the department shall require an agency to rectify
14 them.

15 (31) Develop a time frame for recertifying Commonwealth
16 agencies' procurement processes.

17 (32) Ensure that a database exists to enable State
18 government to have full accountability of all contracts,
19 change orders and amendments.

20 (33) Monitor contracting and purchasing activities of
21 Commonwealth agencies for reasonableness, consistency and
22 compliance.

23 (34) Determine the annual training needs of the
24 Commonwealth agencies' procurement professionals and ensure
25 that those needs are met.

26 (35) Ensure that all Commonwealth agency chief
27 information officer positions are filled in compliance with
28 minimum educational, training and experience requirements.

29 Section 3. Chapter 3 of Title 62 is amended by adding a
30 subchapter to read:

1 SUBCHAPTER F

2 POWERS AND DUTIES OF OTHER

3 COMMONWEALTH AGENCIES

4 Sec.

5 336. Department of Community and Economic Development.

6 § 336. Department of Community and Economic Development.

7 The Department of Community and Economic Development shall:

8 (1) Communicate with other Commonwealth agencies to
9 determine the magnitude of existing Commonwealth contracts
10 with a vendor before awarding grants and tax credits.

11 (2) Verify by reviewing source documentation that
12 vendors actually hire and retain the number of employees
13 agreed upon.

14 (3) Document its review of grant expenditures, including
15 using work papers and documented procedures performed.

16 (4) Develop written standard operating procedures for
17 review and approval of the grant and job creation tax credit
18 process.

19 Section 4. Section 563 of Title 62 is amended to read:

20 § 563. Retention of procurement records.

21 All procurement records, including any written determinations
22 issued in accordance with section 561 (relating to finality of
23 determinations), shall be retained for a minimum of three years
24 from the date of final payment under the contract and disposed
25 of in accordance with records retention guidelines and schedules
26 as provided by law. In accordance with applicable law, all
27 retained documents shall be made available to the State
28 Treasurer, Auditor General, General Counsel, Inspector General
29 and Attorney General upon request, including, but not limited
30 to, the names of the proposal evaluation committee members,

1 copies of proposals not selected and detailed scoring sheets by
2 each member of the proposal evaluation committee.
3 Section 5. This act shall take effect in 60 days.