
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1187 Session of
2015

INTRODUCED BY BENNINGHOFF, JAMES, ENGLISH, GABLER, GINGRICH,
GROVE, A. HARRIS, IRVIN, KNOWLES, MILLARD, B. MILLER, MOUL,
MURT, OBERLANDER, WATSON AND ZIMMERMAN, MAY 12, 2015

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 12, 2015

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, in source selection and contract formation, further
3 providing for sole source procurement and for competitive
4 selection procedures for certain services.

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

7 Section 1. Section 515 of Title 62 of the Pennsylvania
8 Consolidated Statutes is amended to read:

9 § 515. Sole source procurement.

10 (a) General rule.--A contract may be awarded for a supply,
11 service or construction item without competition if the
12 contracting officer first determines in writing that one of the
13 following conditions exists:

14 (1) Only a single contractor is capable of providing the
15 supply, service or construction.

16 (2) A Federal or State statute or Federal regulation
17 exempts the supply, service or construction from the
18 competitive procedure.

1 (3) The total cost of the supply, service or
2 construction is less than the amount established by the
3 department for small, no-bid procurements under section 514
4 (relating to small procurements).

5 (4) It is clearly not feasible to award the contract for
6 supplies or services on a competitive basis.

7 (5) The services are to be provided by attorneys or
8 litigation consultants selected by the Office of General
9 Counsel, the Office of Attorney General, the Department of
10 the Auditor General or the Treasury Department and it is
11 clearly infeasible to utilize competitive bidding under
12 section 512.1 (relating to competitive electronic auction
13 bidding) or 518 (relating to competitive selection procedures
14 for certain services) due to documented urgent need or
15 exigent circumstances.

16 (6) The services are to be provided by expert witnesses.

17 (7) The services involve the repair, modification or
18 calibration of equipment and they are to be performed by the
19 manufacturer of the equipment or by the manufacturer's
20 authorized dealer, provided the contracting officer
21 determines that bidding is not appropriate under the
22 circumstances.

23 (8) The contract is for investment advisors or managers
24 selected by the Public School Employees' Retirement System,
25 the State Employees' Retirement System or a State-affiliated
26 entity.

27 (9) The contract is for financial or investment experts
28 to be used and selected by the Treasury Department or
29 financial or investment experts selected by the Secretary of
30 the Budget.

1 (10) The contract for supplies or services is in the
2 best interest of the Commonwealth.

3 (b) Written authorization in contract file.--The written
4 determination authorizing sole source procurement shall be
5 included in the contract file.

6 (c) Approval by Board of Commissioners of Public Grounds and
7 Buildings.--With the exception of small procurements under
8 section 514 and emergency procurements under section 516
9 (relating to emergency procurement), if the sole source
10 procurement is for a supply, except for computer software
11 updates under \$50,000, for which the department acts as
12 purchasing agency, it must be approved by the Board of
13 Commissioners of Public Grounds and Buildings prior to the award
14 of a contract.

15 Section 2. Section 518 of Title 62 is amended by adding a
16 subsection to read:

17 § 518. Competitive selection procedures for certain services.

18 * * *

19 (a.1) Services of lawyers.--In addition to the other
20 provisions of this section, the procedure for selecting lawyers
21 to perform services shall be subject to the following
22 provisions:

23 (1) The Office of General Counsel shall:

24 (i) Identify categories of legal services or types
25 of cases that may be supplied by outside lawyers.

26 (ii) Develop a competitively bid list of pre-
27 approved outside lawyers for emergency situations.

28 (iii) Identify the circumstances in which the
29 awarding of legal services under sections 512.1 (relating
30 to competitive electronic auction bidding), 515(a)(5)

1 (relating to sole source procurement) or this section are
2 permissible.

3 (iv) Implement a system to award contracts for
4 services of lawyers in accordance with the provisions of
5 this chapter.

6 (2) When an executive agency determines that the
7 services of an outside lawyer are required, the executive
8 agency shall submit to the Office of General Counsel a
9 written request for authorization to proceed. The request
10 shall include:

11 (i) A justification that the executive agency is
12 unable to effectively represent an identifiable legal
13 interest of the executive agency, in a matter involving
14 the executive agency, through a lawyer who is employed by
15 an executive agency.

16 (ii) A detailed estimate of the time and labor that
17 will be required to represent the executive agency in the
18 matter.

19 (iii) A description of the specific legal skill or
20 expertise needed to represent the executive agency in the
21 matter.

22 (iv) A determination that the need for the services
23 is cost effective and in the best interest of the public.

24 (3) The Office of General Counsel shall review the
25 request.

26 (4) If the Office of General Counsel approves the
27 request, it shall submit a written notice to the executive
28 agency authorizing it to proceed under this section or, if
29 applicable, section 512.1 (relating to competitive electronic
30 auction bidding) in the matter.

1 (5) If the Office of General Counsel disapproves the
2 request, it shall submit a written notice to the executive
3 agency explaining the reasoning for the disapproval, and the
4 executive agency shall be prohibited from procuring the
5 services of a lawyer under this section or, if applicable,
6 section 512.1 (relating to competitive electronic auction
7 bidding).

8 * * *

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