

No. _____

LEGISLATIVE REFERENCE BUREAU

AN ACT

Amending Title 62 (Procurement) of the Pennsylvania Consolidated Statutes, further providing for application of part and for definitions; providing for public access to procurement information and for prohibited contracts; further providing for procurement responsibility, for powers and duties, for Board of Commissioners of Public Grounds and Buildings, for methods of source selection, for competitive sealed bidding, for competitive electronic auction bidding, for competitive sealed proposals, for small procurements, for sole source procurement, for emergency procurement, for multiple awards, for competitive selection procedures for certain services, for selection procedure for insurance and notary bonds, for cost or pricing data, for record of certain actions, for procurement *

INTRODUCED _____ **20**_____

By _____ **District NO.** _____

By _____ **District NO.** _____

By _____ **District NO.** _____

By _____ **District NO.** _____

See next page for additional co-sponsors.

Referred to Committee on

Date _____ **20**_____

Reported _____ **20**_____

As Committed-Amended

Recommendation

By Hon. _____

the 1990s, the number of people aged 65 and over in the United States is projected to increase from 20 million in 1990 to 35 million in 2010, and the number of people aged 75 and over is projected to increase from 10 million in 1990 to 20 million in 2010 (U.S. Census Bureau 1996).

As the number of people aged 65 and over increases, the number of people aged 75 and over is expected to increase at a faster rate. The number of people aged 75 and over is projected to increase from 10 million in 1990 to 20 million in 2010, and the number of people aged 85 and over is projected to increase from 3 million in 1990 to 7 million in 2010 (U.S. Census Bureau 1996).

As the number of people aged 75 and over increases, the number of people aged 85 and over is expected to increase at a faster rate. The number of people aged 85 and over is projected to increase from 3 million in 1990 to 7 million in 2010, and the number of people aged 95 and over is projected to increase from 1 million in 1990 to 3 million in 2010 (U.S. Census Bureau 1996).

As the number of people aged 95 and over increases, the number of people aged 100 and over is expected to increase at a faster rate. The number of people aged 100 and over is projected to increase from 1 million in 1990 to 3 million in 2010, and the number of people aged 105 and over is projected to increase from 0.5 million in 1990 to 1.5 million in 2010 (U.S. Census Bureau 1996).

As the number of people aged 105 and over increases, the number of people aged 110 and over is expected to increase at a faster rate. The number of people aged 110 and over is projected to increase from 0.5 million in 1990 to 1.5 million in 2010, and the number of people aged 115 and over is projected to increase from 0.2 million in 1990 to 0.6 million in 2010 (U.S. Census Bureau 1996).

As the number of people aged 115 and over increases, the number of people aged 120 and over is expected to increase at a faster rate. The number of people aged 120 and over is projected to increase from 0.2 million in 1990 to 0.6 million in 2010, and the number of people aged 125 and over is projected to increase from 0.1 million in 1990 to 0.3 million in 2010 (U.S. Census Bureau 1996).

As the number of people aged 125 and over increases, the number of people aged 130 and over is expected to increase at a faster rate. The number of people aged 130 and over is projected to increase from 0.1 million in 1990 to 0.3 million in 2010, and the number of people aged 135 and over is projected to increase from 0.05 million in 1990 to 0.15 million in 2010 (U.S. Census Bureau 1996).

As the number of people aged 135 and over increases, the number of people aged 140 and over is expected to increase at a faster rate. The number of people aged 140 and over is projected to increase from 0.05 million in 1990 to 0.15 million in 2010, and the number of people aged 145 and over is projected to increase from 0.02 million in 1990 to 0.06 million in 2010 (U.S. Census Bureau 1996).

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, further providing for application of part and for
3 definitions; providing for public access to procurement
4 information and for prohibited contracts; further providing
5 for procurement responsibility, for powers and duties, for
6 Board of Commissioners of Public Grounds and Buildings, for
7 methods of source selection, for competitive sealed bidding,
8 for competitive electronic auction bidding, for competitive
9 sealed proposals, for small procurements, for sole source
10 procurement, for emergency procurement, for multiple awards,
11 for competitive selection procedures for certain services,
12 for selection procedure for insurance and notary bonds, for
13 cost or pricing data, for record of certain actions, for
14 procurement of design professional services and for
15 cooperative purchasing authorized; and making editorial
16 changes.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Section 102(a) and (c) of Title 62 of the
20 Pennsylvania Consolidated Statutes are amended to read:

21 § 102. Application of part.

22 (a) Application to Commonwealth [procurement] agencies.--

23 This part applies to every expenditure of funds, other than the
24 investment of funds, by Commonwealth agencies under any

1 contract, irrespective of their source, including Federal
2 assistance moneys except as specified in section 2108 (relating
3 to compliance with Federal requirements). This part does not
4 apply to contracts between Commonwealth agencies or between the
5 Commonwealth and its political subdivisions or other governments
6 except as provided in Chapter 19 (relating to intergovernmental
7 relations). Nothing in this part or in accompanying regulations
8 shall prevent any Commonwealth agency or political subdivision
9 from complying with the terms and conditions of any grant, gift,
10 bequest or cooperative agreement.

11 * * *

12 [(c) Application to General Assembly and unified judicial
13 system.--The General Assembly and its agencies and the unified
14 judicial system and its agencies may use the department as its
15 purchasing agency for the purchase of supplies under this part
16 and may use the department to dispose of surplus supplies under
17 Chapter 15 (relating to supply management).]

18 * * *

19 Section 2. The definitions of "Commonwealth agency,"
20 "contracting officer," "executive agency," "independent agency,"
21 "purchasing agency," "State-affiliated entity" and "supplies" in
22 section 103 of Title 62 are amended and the section is amended
23 by adding definitions to read:

24 § 103. Definitions.

25 Subject to additional definitions contained in subsequent
26 provisions of this part which are applicable to specific
27 provisions of this part, the following words and phrases when
28 used in this part shall have the meanings given to them in this
29 section unless the context clearly indicates otherwise:

30 * * *

1 "Commonwealth agency." An executive agency, a legislative
2 agency, a judicial agency, an independent agency or a State-
3 affiliated entity.

4 "Competitive procurement." Procurement under sections 512
5 (relating to competitive sealed bidding), 512.1 (relating to
6 competitive electronic auction bidding), 513 (relating to
7 competitive sealed proposals), 517 (relating to competitive
8 procurement on a multiple award basis), 518 (relating to
9 competitive selection procedures for certain services), 519
10 (relating to selection procedure for insurance and notary bonds)
11 and 905 (relating to procurement of design professional
12 services).

13 * * *

14 "Contracting agency." A Commonwealth agency which seeks
15 procurement of a supply, service or construction.

16 "Contracting officer." A person authorized to enter into and
17 administer contracts and make written determinations with
18 respect to contracts for a contracting agency.

19 * * *

20 "Executive agency."

21 (1) Any one of the following:

22 (i) The Governor and the departments, boards,
23 commissions, authorities and other officers and agencies
24 of the [Commonwealth] executive branch.

25 (ii) The State Treasurer and the Office of the State
26 Treasurer.

27 (iii) The Auditor General and the Office of the
28 Auditor General.

29 (iv) The Attorney General and the Office of Attorney
30 General.

1 (2) The term does not include [any court or other
2 officer or agency of the unified judicial system, the General

3 Assembly and its officers and agencies or any] a judicial
4 agency, legislative agency, independent agency [or], State-
5 affiliated entity, State-related institution, political
6 subdivision or local, regional or metropolitan transportation
7 authority.

8 * * *

9 "Independent agency." Boards, commissions and other agencies
10 and officers of the Commonwealth which are not subject to the
11 policy supervision and control of the Governor. The term does
12 not include [any] an executive agency, a judicial agency,
13 legislative agency, State-affiliated entity, [any court or other
14 officer or agency of the unified judicial system, the General
15 Assembly and its officers and agencies, any] State-related
16 institution, political subdivision or [any] local, regional or
17 metropolitan transportation authority.

18 * * *

19 "Judicial agency." The Supreme Court, Superior Court,
20 Commonwealth Court or any other court or other officer or agency
21 of the unified judicial system. The term does not include an
22 executive agency, a legislative agency, independent agency,
23 State-affiliated entity, State-related institution, political
24 subdivision or local, regional or metropolitan transportation
25 authority.

26 "Legislative agency."

27 (1) Any one of the following:

28 (i) The Senate of Pennsylvania and a member thereof.

29 (ii) The Pennsylvania House of Representatives and a
30 member thereof.

1 (iii) Another officer or agency of the General
2 Assembly.

3 (2) The term does not include an executive agency,
4 judicial agency, independent agency, State-affiliated entity,
5 State-related institution, political subdivision or any
6 local, regional or metropolitan transportation authority.

7 "Lobbying." As defined in 65 Pa.C.S. § 13A03 (relating to
8 definitions).

9 "Lobbying firm." As defined in 65 Pa.C.S. § 13A03 (relating
10 to definitions).

11 "Lobbyist." As defined in 65 Pa.C.S. § 13A03 (relating to
12 definitions).

13 * * *

14 "Purchasing agency." A Commonwealth agency authorized by
15 this part or by other law to enter into contracts for itself or
16 as the agent [of another Commonwealth] for a contracting agency.
17 When purchasing for itself, the agency is both the contracting
18 agency and the purchasing agency. When purchasing for another
19 [Commonwealth] contracting agency, the purchasing agency acts on
20 behalf of the [principal which needs the supplies, services and
21 construction] contracting agency and shall coordinate and
22 cooperate with [that] the contracting agency.

23 * * *

24 "State-affiliated entity." A Commonwealth authority or a
25 Commonwealth entity. The term includes the Pennsylvania Turnpike
26 Commission, the Pennsylvania Housing Finance Agency, the
27 Pennsylvania Municipal Retirement System, the Pennsylvania
28 Infrastructure Investment Authority, the State Public School
29 Building Authority, the Pennsylvania Higher Educational
30 Facilities Authority and the State System of Higher Education.

1 The term does not include [any court or other officer or agency
2 of the unified judicial system, the General Assembly and its
3 officers and agencies, any] a judicial agency, legislative
4 agency, State-related institution, political subdivision or any
5 local, regional or metropolitan transportation authority.

6 * * *

7 "Supplies." Any property[, including, but not limited to,].
8 The term includes equipment, materials, printing, insurance and
9 leases of and installment purchases of tangible or intangible
10 personal property. The term does not include real property,
11 leases of real property or alcoholic beverages or liquor
12 purchased for resale by the Pennsylvania Liquor Control Board.

13 * * *

14 Section 3. Title 62 is amended by adding a section to read:
15 § 106.1. Public access to procurement information.

16 (a) Access.--Information concerning a procurement shall be
17 made public consistent with the act of February 14, 2008
18 (P.L.6, No.3), known as the Right-to-Know Law.

19 (b) Access for noncompetitive contracts.--Except as provided
20 under subsection (c), if a procurement is to be made under
21 section 513 (relating to competitive sealed proposals), 517
22 (relating to competitive procurement on a multiple award basis),
23 518 (relating to competitive selection procedures for certain
24 services), 519 (relating to selection procedure for insurance
25 and notary bonds) or 905 (relating to procurement of design
26 professional services), at least five business days prior to
27 execution by the contracting officer the purchasing agency shall
28 post the proposed contract on its Internet website.

29 (c) Exception.--All of the following are applicable to a
30 procurement under section 516 (relating to emergency

1 procurement):

2 (1) Subsection (b) shall not apply.

3 (2) The signed contract shall be posted on the Internet
4 website of the purchasing agency within ten days after the
5 execution of the contract by all parties to the contract.

6 Section 4. Section 301 of Title 62 is amended by adding
7 subsections to read:

8 § 301. Procurement responsibility.

9 * * *

10 (e) Application to legislative agencies.--Legislative
11 agencies shall formulate their own procurement policy governing
12 the procurement, management, control and disposal of supplies,
13 services and construction and may act as their own purchasing
14 agency for the procurement of supplies, services and
15 construction, except that they shall use the procedures provided
16 under this part for the procurement. A legislative agency may
17 use the department as its purchasing agency for the purchase of
18 supplies, services and construction under this part and may use
19 the department to dispose of surplus supplies under Chapter 15
20 (relating to supply management).

21 (f) Application to judicial agencies.--Judicial agencies may
22 formulate their own procurement policy governing the
23 procurement, management, control and disposal of supplies,
24 services and construction and may act as their own purchasing
25 agency for the procurement of supplies, services and
26 construction, except that they shall use the procedures provided
27 under this part for the procurement. A judicial agency may use
28 the department as its purchasing agency for the purchase of
29 supplies, services and construction under this part and may use
30 the department to dispose of surplus supplies under Chapter 15.

1 Section 5. Sections 311, 326, 511, 512(a), 512.1(a), 513(a),
2 (b), (e) and (g), 514, 515, 516, 517, 518(a), (c) and (e),
3 519(a) and (c), 534(a)(1), 564 introductory paragraph, 905(a)
4 and 1902 of Title 62 are amended to read:

5 § 311. Powers and duties.

6 Except as otherwise provided in this part, the department may
7 promulgate regulations governing the procurement, management,
8 control and disposal of any and all supplies, services and
9 construction to be procured by [Commonwealth] executive agencies
10 and independent agencies. The department shall consider and
11 decide matters of policy within the provisions of this part
12 relating to executive agencies and independent agencies. The
13 department may audit and monitor the implementation of its
14 regulations and the requirements of this part.

15 § 326. Board of Commissioners of Public Grounds and Buildings.

16 No lease of real estate for use by an executive agency or
17 independent agency [and no sole source procurement of supplies,
18 except for computer software updates under \$50,000, for an
19 executive or independent agency] for which the department acts
20 as the purchasing agency shall be valid or effective unless,
21 upon review, it is approved by the Board of Commissioners of
22 Public Grounds and Buildings. [Where the board is reviewing a
23 proposed sole source lease or procurement being submitted
24 pursuant to section 515 (relating to sole source procurement),
25 approval of the lease or procurement shall require the unanimous
26 vote of the board. Where the board is reviewing a] A proposed
27 [non-sole source lease, the] lease shall be approved when one
28 member of the board votes to approve the lease. All votes shall
29 take place at a public meeting.

30 § 511. Methods of source selection.

1 Unless otherwise authorized by law, all Commonwealth agency
2 contracts shall be awarded by competitive sealed bidding under
3 section 512 (relating to competitive sealed bidding) except as
4 provided in:

5 Section 512.1 (relating to competitive electronic auction
6 bidding).

7 Section 513 (relating to competitive sealed proposals).

8 Section 514 (relating to small procurements).

9 [Section 515 (relating to sole source procurement).]

10 Section 516 (relating to emergency procurement).

11 Section 517 (relating to [multiple awards] competitive
12 procurement on a multiple award basis).

13 Section 518 (relating to competitive selection procedures
14 for certain services).

15 Section 519 (relating to selection procedure for
16 insurance and notary bonds).

17 Section 520 (relating to supplies manufactured and
18 services performed by persons with disabilities).

19 Section 905 (relating to procurement of design
20 professional services).

21 § 512. Competitive sealed bidding.

22 (a) Conditions for use.--Contracts for supplies, services
23 and construction shall be awarded by competitive sealed bidding
24 except as otherwise provided [in section 511 (relating to
25 methods of source selection)] under this chapter.

26 * * *

27 § 512.1. Competitive electronic auction bidding.

28 (a) Conditions for use.--If the contracting officer of the
29 purchasing agency determines in writing that use of competitive
30 [electronic auction] sealed bidding is not in the best interests

1 of the Commonwealth[,] and that the use of competitive
2 electronic auction bidding is more advantageous to the
3 Commonwealth, the purchasing agency may enter into a contract
4 for supplies or services, but not construction, [may be entered
5 into] by competitive electronic auction bidding.

6 * * *

7 § 513. Competitive sealed proposals.

8 [(a) Conditions for use.--When the contracting officer
9 determines in writing that the use of competitive sealed bidding
10 is either not practicable or advantageous to the Commonwealth, a
11 contract may be entered into by competitive sealed proposals.

12 (b) Request for proposals.--Proposals shall be solicited
13 through a request for proposals.]

14 (a) Conditions for use.--If the head of a contracting agency
15 determines in writing that the use of competitive sealed bidding
16 is not in the best interests of the Commonwealth and that the
17 use of competitive sealed proposals is more advantageous to the
18 Commonwealth, the purchasing agency may enter into a contract
19 for supplies, services and construction by competitive sealed
20 proposals.

21 (b) Request for proposals.--

22 (1) After making the determination required under
23 subsection (a), proposals shall be solicited through a
24 request for proposals.

25 (2) A request for proposals shall require each offeror
26 to include a statement which contains the following
27 information:

28 (i) Whether the offeror or any of the offeror's
29 directors, officers or owners has made a campaign
30 contribution to a State or local official within the one

1 year immediately preceding the date of the offeror's
2 proposal.

3 (ii) The name of each State or local official named
4 under subparagraph (i) and the official's position.

5 (iii) The aggregate amount of campaign contributions
6 made under subparagraph (i).

7 (3) The statement required under paragraph (2) shall be
8 posted on the purchasing agency's Internet website
9 simultaneously with the posting of a proposed contract under
10 section 106.1(b) (relating to public access to procurement
11 information) or a signed contract under section 106.1(c) (2).

12 * * *

13 (e) Evaluation.--The relative importance of the evaluation
14 factors shall be fixed prior to opening the proposals. A
15 Commonwealth agency is required to invite its comptroller to
16 participate in the evaluation as a nonvoting member of any
17 evaluation committee. No individual who has been employed by an
18 offeror within the two years immediately preceding the date of
19 the offeror's proposal may participate in the evaluation of
20 proposals.

21 * * *

22 (g) Selection for negotiation.--The responsible offeror
23 whose proposal is determined in writing to be the most
24 advantageous to the [purchasing] contracting agency, taking into
25 consideration price and all evaluation factors, shall be
26 selected for contract negotiation.

27 § 514. Small procurements.

28 If the procurement is not the subject of a Statewide
29 requirements contract between the purchasing agency and a
30 contractor, the head of the purchasing agency may authorize in

1 writing procurements without [formal bid procedures, not
2 exceeding the amount established by the purchasing agency] the
3 use of competitive procurement procedures for small
4 procurements. The head of the purchasing agency may authorize a
5 small procurement [of the supply or service] on a no-bid basis
6 for [procurements which do] a supply or service which does not
7 exceed [the amount established by the head of the purchasing
8 agency for small, no-bid procurements] a total cost of \$5,000.
9 The amount of \$5,000 shall be adjusted annually by the
10 department to reflect the annual percentage change in the
11 Consumer Price Index of the United States Department of Commerce
12 occurring in the one-year period ending December 31 of each
13 year. The head of the purchasing agency may authorize a small
14 procurement on a no-bid basis for [construction projects that
15 do] a construction project which does not exceed a total
16 construction cost of \$10,000. The amount of \$10,000 shall be
17 adjusted annually by the department to reflect the annual
18 percentage change in the Composite Construction Cost Index of
19 the United States Department of Commerce occurring in the one-
20 year period ending December 31 of each year. Procurement
21 requirements shall not be artificially divided so as to
22 constitute a small procurement under this section. Small
23 procurements shall be made in accordance with the requirements
24 of the written authorization and this section. Records of all
25 small procurements shall be transmitted to the purchasing
26 agency.

27 § 515. [Sole source procurement.

28 A contract may be awarded for a supply, service or
29 construction item without competition if the contracting officer
30 first determines in writing that one of the following conditions

1 exists:

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

4 (2) A Federal or State statute or Federal regulation
5 exempts the supply, service or construction from the
6 competitive procedure.

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

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

13 (5) The services are to be provided by attorneys or
14 litigation consultants selected by the Office of General
15 Counsel, the Office of Attorney General, the Department of
16 the Auditor General or the Treasury Department.

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

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

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

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

1 the Budget.

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

4 The written determination authorizing sole source procurement
5 shall be included in the contract file. With the exception of
6 small procurements under section 514 and emergency procurements
7 under section 516 (relating to emergency procurement), if the
8 sole source procurement is for a supply, except for computer
9 software updates under \$50,000, for which the department acts as
10 purchasing agency, it must be approved by the Board of
11 Commissioners of Public Grounds and Buildings prior to the award
12 of a contract.] (Reserved).

13 § 516. Emergency procurement.

14 [The head of a purchasing agency may make or authorize others
15 to make an emergency procurement when there exists a threat to
16 public health, welfare or safety or circumstances outside the
17 control of the agency create an urgency of need which does not
18 permit the delay involved in using more formal competitive
19 methods. Whenever practical, in the case of a procurement of a
20 supply, at least two bids shall be solicited. A written
21 determination of the basis for the emergency and for the
22 selection of the particular contractor shall be included in the
23 contract file.]

24 (a) Condition of use.--If the head of a contracting agency
25 determines in writing that the use of competitive sealed bidding
26 is not in the best interests of the Commonwealth and that the
27 supply, service or construction is necessary to prevent an
28 immediate threat of personal injury or physical damage to
29 property, the purchasing agency may, after receiving approval by
30 the Board of Commissioners of Public Grounds and Buildings,

1 enter into a contract for the supply, service or construction
2 without the use of competitive procurement.

3 (b) Documentation.--The determination required under
4 subsection (a) shall be placed in the contract file and shall be
5 made available for public inspection in accordance with section
6 106.1 (relating to public access to procurement information).

7 (c) Exception.--For the purposes of this section, a
8 procurement which is necessary to respond to a disaster
9 emergency declared under 35 Pa.C.S. § 7301 (relating to general
10 authority of Governor) shall be deemed to meet the standard set
11 forth in subsection (a).

12 (d) Procurement of supplies.--For procurement of supplies,
13 at least two bids shall be solicited, if practicable.

14 § 517. [Multiple awards] Competitive procurement on a multiple
15 award basis.

16 (a) Conditions for use.--[Contracts may be entered into on a
17 multiple award basis when the head of the purchasing agency
18 determines that one or more of the following criteria is
19 applicable:] If the head of the contracting agency determines in
20 writing that one or more of the conditions listed under
21 subsection (a.1) exists and that the use of multiple contracts
22 is more advantageous to the Commonwealth, the purchasing agency
23 may enter into a contract on a multiple award basis.

24 (a.1) Conditions.--In order for a procurement to be made
25 under this section, the head of a contracting agency must
26 determine that one of the following conditions exists:

27 (1) It is administratively or economically impractical
28 to develop or modify specifications for a myriad of related
29 supplies because of rapid technological changes.

30 (2) The subjective nature in the use of certain supplies

1 and the fact that recognizing this need creates a more
2 efficient use of the item.

3 (3) It is administratively or economically impractical
4 to develop or modify specifications because of the
5 heterogeneous nature of the product lines.

6 (4) There is a need for compatibility with existing
7 systems.

8 (5) The agency should select the contractor to furnish
9 the supply, service or construction based upon best value or
10 return on investment.

11 (b) Solicitation process.--[Invitations to bid or requests
12 for proposals shall be issued for the supplies, services or
13 construction to be purchased] Invitations to bid shall be issued
14 as provided under section 512(b) (relating to competitive sealed
15 bidding) for supplies, services or construction to be purchased
16 or requests for proposals shall be issued as provided under
17 section 513(b) (relating to competitive sealed proposals) for
18 supplies, services or construction to be purchased. Invitations
19 for bids or requests for proposals shall describe the method for
20 selection of the successful bidders or offerors.

21 (c) Public notice.--Public notice of the invitation for bids
22 or request for proposals shall be given in the same manner as
23 provided in section 512(c) [(relating to competitive sealed
24 bidding)].

25 (d) Receipt of bids or proposals.--Bids shall be opened in
26 the same manner as provided in section 512(d). Proposals shall
27 be received and evaluated in the same manner as provided in
28 section 513(d) and (e) [(relating to competitive sealed
29 proposals)].

30 (e) Award.--[The invitation for bids or request for

1 proposals shall describe the method for selection of the
2 successful bidders or offerors. There are three options:] The
3 purchasing agency shall make contract awards consistent with the
4 following:

5 (1) Awards shall be made to the lowest responsible
6 bidder or offeror for each designated manufacturer.

7 (2) Awards shall be made to the two or three lowest
8 responsible bidders or offerors for each designated
9 manufacturer.

10 (3) Awards shall be made to all responsible bidders or
11 offerors.

12 (f) Selection.--A Commonwealth agency may select a
13 contractor from the bidders or offerors awarded contracts under
14 subsection (e) to furnish the supply, service or construction
15 based upon best value or return on investment.

16 § 518. Competitive selection procedures for certain services.

17 (a) Conditions for use.--The services of accountants,
18 clergy, physicians, lawyers, dentists and other professional
19 services which are not performed by other Commonwealth employees
20 shall be procured in accordance with this section except as
21 authorized under section 514 (relating to small procurements) [,
22 515 (relating to sole source procurement)] or 516 (relating to
23 emergency procurement).

24 * * *

25 (c) Request for proposals.--Adequate notice of the need for
26 the services specified in subsection (a) shall be given by the
27 purchasing agency through a request for proposals. The request
28 for proposals shall describe the services required, list the
29 type of information required of each offeror and state the
30 relative importance of the particular information. Additionally,

1 each request for a proposal shall require the offeror to
2 include the same statement required under section 513(b)
3 (relating to competitive sealed proposals).

4 * * *

5 (e) Award.--Award shall be made to the responsible offeror
6 determined in writing by the contracting officer to be best
7 qualified based on the evaluation factors set forth in the
8 request for proposals. Fair and reasonable compensation shall be
9 determined through negotiation, except that no contract may
10 provide for compensation which exceeds the rate charged other
11 governmental entities for the same or substantially similar
12 services. If compensation cannot be agreed upon with the best
13 qualified responsible offeror, then negotiations will be
14 formally terminated with the offeror. If proposals were
15 submitted by one or more other responsible offerors,
16 negotiations may be conducted with the other responsible offeror
17 or responsible offerors in the order of their respective
18 qualification ranking. The contract may be awarded to the
19 responsible offeror then ranked as best qualified if the amount
20 of compensation is determined to be fair and reasonable.

21 § 519. Selection procedure for insurance and notary bonds.

22 (a) Conditions for use.--Insurance and notary bonds shall be
23 procured by the department in accordance with this section
24 except as authorized under section [515 (relating to sole source
25 procurement) or] 516 (relating to emergency procurement).

26 * * *

27 (c) Request for proposals.--Adequate notice of the need for
28 insurance or notary bond coverage shall be given by the
29 purchasing agency through a request for proposals. The request
30 for proposals shall describe the type of insurance or bond

1 coverage required and list the type of information and data
2 required of each offeror and shall include the same statement
3 required under section 513(b) (relating to competitive sealed
4 proposals).

5 * * *

6 § 534. Cost or pricing data.

7 (a) Submission by contractor.--A contractor shall, except as
8 provided in subsection (c), submit cost or pricing data and
9 shall certify that, to the best of its knowledge and belief, the
10 cost or pricing data submitted was accurate, complete and
11 current as of a mutually determined specified date prior to the
12 date of:

13 (1) the award of any contract under section 513
14 (relating to competitive sealed proposals) [or 515 (relating
15 to sole source procurement)] where, under either section, the
16 total contract price is expected to exceed an amount
17 established by the head of the purchasing agency; or

18 * * *

19 § 564. Record of certain actions.

20 The purchasing agency shall maintain a record listing all
21 contracts made under sections 514 (relating to small
22 procurements) [, 515 (relating to sole source procurement)] and
23 516 (relating to emergency procurement) for a minimum of three
24 years from the date of final payment under the contract. The
25 record shall contain:

26 * * *

27 § 905. Procurement of design professional services.

28 (a) Applicability.--Design professional services shall be
29 procured as provided in this section except as authorized by
30 sections 514 (relating to small procurements) [, 515 (relating to

1 sole source procurement)] and 516 (relating to emergency
2 procurement).

3 * * *

4 § 1902. Cooperative purchasing authorized.

5 A public procurement unit may either participate in, sponsor,
6 conduct or administer a cooperative purchasing agreement for the
7 procurement of any supplies, services or construction with one
8 or more public procurement units or external procurement
9 activities in accordance with an agreement entered into between
10 the participants. The Department of General Services is
11 authorized to enter into cooperative purchasing contracts solely
12 for the use of local public procurement units or State-
13 affiliated entities. The department shall enter into cooperative
14 purchasing contracts for the use of local public procurement
15 units or State-affiliated entities if the number of contractors
16 under a previously existing contract for the same supply or
17 service is reduced to a single contractor or reduced by more
18 than 50% of the number existing on September 30, 2003, and shall
19 award such contracts pursuant to section 517 (relating to
20 competitive procurement on a multiple [awards] award basis)
21 using an invitation for bids. Nothing in this section shall
22 prohibit a local public procurement unit or State-affiliated
23 entity from participating in or procuring from other cooperative
24 purchasing agreements awarded by the department. Cooperative
25 purchasing may include, but is not limited to, joint or
26 multiparty contracts between public procurement units and open-
27 ended purchasing agency contracts which are made available to
28 local public procurement units.

29 Section 6. This act shall take effect in 60 days.