
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 903 Session of
2007

INTRODUCED BY ORIE, FOLMER, WAUGH, RAFFERTY, ARMSTRONG, EARLL,
ROBBINS AND REGOLA, JUNE 1, 2007

REFERRED TO STATE GOVERNMENT, JUNE 1, 2007

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, further providing for contracts relating to
3 consulting.

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

6 Section 1. Sections 511 and 515 of Title 62 of the
7 Pennsylvania Consolidated Statutes are amended to read:

8 § 511. Methods of source selection.

9 Unless otherwise authorized by law, all Commonwealth agency
10 contracts shall be awarded by competitive sealed bidding under
11 section 512 (relating to competitive sealed bidding) except as
12 provided in:

13 Section 512.1 (relating to competitive electronic auction
14 bidding).

15 Section 513 (relating to competitive sealed proposals).

16 Section 514 (relating to small procurements).

17 Section 515 (relating to sole source procurement).

18 Section 516 (relating to emergency procurement).

1 Section 517 (relating to multiple awards).

2 Section 518 (relating to competitive selection procedures
3 for certain services).

4 Section 519 (relating to selection procedure for
5 insurance and notary bonds).

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

8 Section 905 (relating to procurement of design
9 professional services).

10 Section 1105 (relating to consulting contracts under
11 \$5,000 in value).

12 § 515. Sole source procurement.

13 A contract may be awarded for a supply, service or
14 construction item without competition if the contracting officer
15 first determines in writing that one of the following conditions
16 exists:

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

19 (2) A Federal or State statute or Federal regulation
20 exempts the supply, service or construction from the
21 competitive procedure.

22 (3) The total cost of the supply, service, other than
23 services under Chapter 11 (relating to legal, bond or
24 management consulting contracts), or construction is less
25 than the amount established by the department for small, no-
26 bid procurements under section 514 (relating to small
27 procurements).

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

30 (5) The services are to be provided by attorneys or

1 litigation consultants selected by the Office of General
2 Counsel, the Office of Attorney General, the Department of
3 the Auditor General or the Treasury Department in connection
4 with pending litigation against the Commonwealth.

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

6 (7) The services involve the repair, modification or
7 calibration of equipment and they are to be performed by the
8 manufacturer of the equipment or by the manufacturer's
9 authorized dealer, provided the contracting officer
10 determines that bidding is not appropriate under the
11 circumstances.

12 (8) The contract is for investment advisors or managers
13 selected by the Public School Employees' Retirement System,
14 the State Employees' Retirement System or a State-affiliated
15 entity.

16 (9) The contract is for financial or investment experts
17 to be used and selected by the Treasury Department or
18 financial or investment experts selected by the Secretary of
19 the Budget.

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

22 The written determination authorizing sole source procurement
23 shall be included in the contract file and shall be available
24 for public inspection. With the exception of small procurements
25 under section 514 and emergency procurements under section 516
26 (relating to emergency procurement), if the sole source
27 procurement is for a supply, except for computer software
28 updates under \$50,000, for which the department acts as
29 purchasing agency, it must be approved by the Board of
30 Commissioners of Public Grounds and Buildings prior to the award

1 of a contract.

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

3 CHAPTER 11

4 LEGAL, BOND OR MANAGEMENT CONSULTING CONTRACTS

5 Sec.

6 1101. Short title of chapter.

7 1102. Definitions.

8 1103. Contract prohibitions.

9 1104. Qualifications, criteria and procedure.

10 1105. Consulting contracts under \$5,000 in value.

11 1106. Consulting contracts over \$5,000 in value.

12 1107. Campaign contributions.

13 1108. Public inspection.

14 § 1101. Short title of chapter.

15 This chapter shall be known and may be cited as the Openness
16 in Consulting Contracts Act.

17 § 1102. Definitions.

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

21 "Business." Any corporation, partnership, sole
22 proprietorship, firm, enterprise, franchise, association,
23 organization, self-employed individual, holding company, joint
24 stock company, receivership, trust or any legal entity organized
25 for profit.

26 "Consulting services." The provision, by independent
27 contractors who receive a fee or compensation, of professional
28 or expert advice, opinion or other advisory examination which
29 involves the delivery of an end product consisting primarily of
30 correspondence, graphs, drawings or other oral or written

1 reports. The term shall include:

2 (1) Management consulting contracts designed to improve
3 the effectiveness of management strategies, processes or
4 operations by assessing needs, functions, plans and operating
5 procedures.

6 (2) Legal consulting services that provide legal
7 opinions, strategies or assessments of agency conduct, other
8 than those related to pending litigation.

9 (3) Provision of legal services in connection with the
10 sale or issuance of bonds authorized by law.

11 § 1103. Contract prohibitions.

12 No Commonwealth agency, State-affiliated entity or State-
13 related institution may contract with any individual or business
14 who is not an employee of such entity to provide legal, bond or
15 management consulting services, unless such contracting meets
16 the disclosure and other requirements of this chapter or is
17 opened up to competitive bidding pursuant to this chapter.

18 § 1104. Qualifications, criteria and procedure.

19 If a Commonwealth agency, State-affiliated entity or State-
20 related institution has a need or anticipates a future need for
21 consulting services as defined by this chapter, the agency shall
22 promulgate and publish the minimum educational, experience and
23 other qualifications and criteria which must be met by any
24 individual or business that desires to provide such services to
25 the agency, entity or institution. The agency, entity or
26 institution shall also promulgate and publish the procedure that
27 must be followed by an individual or firm desiring to provide
28 such services.

29 § 1105. Consulting contracts under \$5,000 in value.

30 Each Commonwealth agency, State-affiliated entity or State-

1 related institution shall maintain a public registry for all
2 individuals or businesses who have applied and meet the
3 qualifications and criteria to provide legal, bond or management
4 consulting contracts pursuant to this chapter. Contracts which
5 will not exceed \$5,000 in value shall be assigned on an equal,
6 rotating basis to the consultants on that registry.

7 § 1106. Consulting contracts over \$5,000 in value.

8 Consulting contracts for which the value may exceed \$5,000
9 shall be awarded by competitive sealed bidding under section 512
10 (relating to competitive sealed bidding).

11 § 1107. Campaign contributions.

12 All individuals and businesses who perform work for State
13 government under this chapter shall be required to report their
14 campaign contributions as one condition of receiving future
15 consulting contracts.

16 § 1108. Public inspection.

17 All information as to criteria, contracts awarded and
18 contributions shall be made available for public inspection on
19 the Internet.

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