

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1291 Session of 2011

INTRODUCED BY WHITE, BRENNAN, CALTAGIRONE, CLYMER, D. COSTA,  
DALEY, DeLUCA, DePASQUALE, GIBBONS, GOODMAN, HALUSKA, HARHAI,  
JOSEPHS, MATZIE, M. O'BRIEN, VULAKOVICH AND WAGNER,  
APRIL 6, 2011

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 6, 2011

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated  
2 Statutes, further providing for sole source procurement and  
3 for emergency procurement.

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

6 Section 1. Sections 515 and 516 of Title 62 of the  
7 Pennsylvania Consolidated Statutes are amended to read:  
8 § 515. Sole source procurement.

9 [A] (a) Requirements.--Subject to subsection (b) of this  
10 section, a contract may be awarded for a supply, service or  
11 construction item without competition if the contracting officer  
12 first determines in writing that one of the following conditions  
13 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

1 competitive procedure.

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

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

8 (5) The services are to be provided by attorneys or  
9 litigation consultants selected by the Office of General  
10 Counsel, the Office of Attorney General, the Department of  
11 the Auditor General or the Treasury Department.

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

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

19 (8) The contract is for investment advisors or managers  
20 selected by the Public School Employees' Retirement System,  
21 the State Employees' Retirement System or a State-affiliated  
22 entity.

23 (9) The contract is for financial or investment experts  
24 to be used and selected by the Treasury Department or  
25 financial or investment experts selected by the Secretary of  
26 the Budget.

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

29 The written determination authorizing sole source procurement  
30 shall be included in the contract file. With the exception of

1 small procurements under section 514 and emergency procurements  
2 under section 516 (relating to emergency procurement), if the  
3 sole source procurement is for a supply, except for computer  
4 software updates under \$50,000, for which the department acts as  
5 purchasing agency, it must be approved by the Board of  
6 Commissioners of Public Grounds and Buildings prior to the award  
7 of a contract.

8 (b) Persons who may approve sole source procurements.--The  
9 approval of at least two of the following three persons is  
10 required for the approval of all sole source procurements:

- 11 (1) the State Treasurer;  
12 (2) the President pro tempore of the Senate; or  
13 (3) the Speaker of the House of Representatives.

14 (c) Record of approval.--All approvals from those persons  
15 listed in subsection (b) shall be included in the contract file.  
16 § 516. Emergency procurement.

17 [The] (a) Requirements.--If an emergency procurement is  
18 approved by at least two of the three persons listed in  
19 subsection (b), the head of a purchasing agency may make or  
20 authorize others to make an emergency procurement when there  
21 exists a threat to public health, welfare or safety or  
22 circumstances outside the control of the agency create an  
23 urgency of need which does not permit the delay involved in  
24 using more formal competitive methods. Whenever practical, in  
25 the case of a procurement of a supply, at least two bids shall  
26 be solicited. A written determination of the basis for the  
27 emergency and for the selection of the particular contractor  
28 shall be included in the contract file.

29 (b) Persons who may approve emergency procurements.--The  
30 approval of at least two of the following three persons is

1 required for the approval of all emergency procurements:

2 (1) the State Treasurer;

3 (2) the President pro tempore of the Senate; or

4 (3) the Speaker of the House of Representatives.

5 (c) Record of approval.--All approvals from those persons

6 listed in subsection (b) shall be included in the contract file.

7 Section 2. This act shall take effect in 60 days.