

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 1200** Session of
2011

INTRODUCED BY FOLMER, VOGEL, RAFFERTY, ERICKSON, ORIE, SMUCKER,
FARNESE, PILEGGI, ALLOWAY, BROWNE, WAUGH, FERLO, YUDICHAK,
BOSCOLA, MENSCH AND PICCOLA, JULY 21, 2011

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, MARCH
13, 2012

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

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

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

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

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

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

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

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

28 (B) POSTING OF JUSTIFICATION ON INTERNET.--FOR PROCUREMENTS ←
29 MADE UNDER SUBSECTION (A) (1), (2), (4) AND (10), JUSTIFICATION
30 TO SUPPORT THE FINDING THAT THE CONDITION EXISTS SHALL BE POSTED

1 ON THE PURCHASING AGENCY'S PUBLICLY ACCESSIBLE INTERNET WEBSITE
2 FOR SEVEN CALENDAR DAYS FOR PUBLIC COMMENT PRIOR TO COMMONWEALTH
3 EXECUTION OF THE CONTRACT.

4 (C) WRITTEN DETERMINATION.--The written determination ←
5 authorizing sole source procurement shall be included in the
6 contract file~~].~~ and shall include a justification explaining ←
7 why the sole source procurement is necessary. For procurements
8 over \$250,000 made under paragraph (10) SUBSECTION (A) (10), the ←
9 justification, which shall be signed by the Secretary of General ←
10 Services, and for information technology contracts by the
11 Secretary of Administration or by the Chief Information Officer
12 of the Office of Information Technology, shall include a
13 detailed, written explanation of why the contract for supplies
14 or services is in the best interest of the Commonwealth,
15 including specifications, requirements, capabilities and
16 compatibility required. All written determinations and
17 justifications of sole source procurement contracts, purchase
18 orders, interagency agreements and intergovernmental cooperation
19 agreements shall be posted on the department's publicly
20 accessible Internet website. DETERMINATION SHALL BE SIGNED BY ←
21 THE HEAD OF THE PURCHASING AGENCY.

22 (D) APPROVAL REQUIRED BY BOARD OF COMMISSIONERS OF PUBLIC
23 GROUNDS AND BUILDINGS.-- With the exception of small
24 procurements under section 514 and emergency procurements under
25 section 516 (relating to emergency procurement), if the sole
26 source procurement is for a supply, except for computer software
27 updates under \$50,000, for which the department acts as
28 purchasing agency, it must be approved by the Board of
29 Commissioners of Public Grounds and Buildings prior to the award
30 of a contract.

1 § 516. Emergency procurement.

2 The head of a purchasing agency may make or authorize others
3 to make an emergency procurement when there exists a threat to
4 public health, welfare or safety or circumstances outside the
5 control of the agency create an urgency of need which does not
6 permit the delay involved in using more formal competitive
7 methods. Whenever practical, in the case of a procurement of a
8 supply, at least two [bids] QUOTES shall be solicited. A written ←
9 determination of the basis for the emergency and for the
10 selection of the particular contractor shall be included in the
11 ~~contract file[.] and shall include a justification, which for ←~~
12 ~~procurements over \$250,000 shall be signed by the Secretary of~~
13 ~~General Services, and for information technology contracts by~~
14 ~~the Secretary of Administration or by the Chief Information~~
15 ~~Officer of the Office of Information Technology, explaining why~~
16 ~~the emergency procurement is necessary. All written~~
17 ~~determinations and justifications of emergency procurement~~
18 ~~contracts, purchase orders, interagency agreements and~~
19 ~~intergovernmental cooperation agreements shall be posted on the~~
20 ~~department's publicly accessible Internet website. [CONTRACT ←~~
21 FILE.] PROCUREMENT FILE AND SHALL BE POSTED ON THE PURCHASING
22 AGENCY'S PUBLICLY ACCESSIBLE INTERNET WEBSITE WITHIN SEVEN
23 CALENDAR DAYS AFTER THE EMERGENCY PROCUREMENT IS AUTHORIZED AND
24 SHALL REMAIN ON THE WEBSITE FOR A MINIMUM OF 30 DAYS. NO WRITTEN
25 CONTRACT SHALL BE REQUIRED. THE SUPPLIER OF THE SUPPLY, SERVICE
26 OR CONSTRUCTION MAY BE PAID BASED ON THE EMERGENCY APPROVAL AND
27 APPROVED INVOICE.

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