

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

AS AMENDED ON THIRD CONSIDERATION, MARCH 26, 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.

18 (3) The total cost of the supply, service or

1 construction is less than the amount established by the
2 department for small, no-bid procurements under section 514
3 (relating to small procurements).

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

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

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

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

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

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

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

27 (b) Posting of ~~justification~~ DETERMINATION on Internet.--For ←
28 procurements made under subsection (a) (1), (2), (4) and (10),
29 ~~justification~~ A DETERMINATION to support the finding that the ←
30 condition exists shall be posted on the purchasing agency's

1 publicly accessible Internet website for seven calendar days for
2 public comment prior to Commonwealth execution of the contract.

3 (c) Written determination.--The written determination
4 authorizing sole source procurement shall be included in the
5 contract file. For procurements over \$250,000 made under
6 subsection (a)(10), the determination shall be signed by the
7 head of the purchasing agency.

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

17 § 516. Emergency procurement.

18 The head of a purchasing agency may make or authorize others
19 to make an emergency procurement when there exists a threat to
20 public health, welfare or safety or circumstances outside the
21 control of the agency create an urgency of need which does not
22 permit the delay involved in using more formal competitive
23 methods. Whenever practical, in the case of a procurement of a
24 supply, at least two [bids] quotes shall be solicited. A written
25 determination of the basis for the emergency and for the
26 selection of the particular contractor shall be included in the
27 [contract file.] procurement file and shall be posted on the
28 purchasing agency's publicly accessible Internet website within
29 seven calendar days after the emergency procurement is
30 authorized and shall remain on the website for a minimum of 30

1 days. No written contract shall be required. The supplier of the
2 supply, service or construction may be paid based on the
3 emergency approval and approved invoice.

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