AN ACT

Amending Title 62 (Procurement) of the Pennsylvania Consolidated Statutes, in source selection and contract formation, further providing for sole source procurement and for competitive selection procedures for certain services.

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

Section 1. Section 515 of Title 62 of the Pennsylvania Consolidated Statutes is amended to read:

§ 515. Sole source procurement.

(a) General rule.--A contract may be awarded for a supply, service or construction item without competition if the contracting officer first determines in writing that one of the following conditions exists:

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

(2) A Federal or State statute or Federal regulation exempts the supply, service or construction from the competitive procedure.
(3) The total cost of the supply, service or construction is less than the amount established by the department for small, no-bid procurements under section 514 (relating to small procurements).

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

(5) The services are to be provided by attorneys or litigation consultants selected by the Office of General Counsel, the Office of Attorney General, the Department of the Auditor General or the Treasury Department and it is clearly infeasible to utilize competitive bidding under section 512.1 (relating to competitive electronic auction bidding) or 518 (relating to competitive selection procedures for certain services) due to documented urgent need or exigent circumstances.

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

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

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

(9) The contract is for financial or investment experts to be used and selected by the Treasury Department or financial or investment experts selected by the Secretary of the Budget.
(10) The contract for supplies or services is in the best interest of the Commonwealth.

(b) Written authorization in contract file.--The written determination authorizing sole source procurement shall be included in the contract file.

(c) Approval by Board of Commissioners of Public Grounds and Buildings.--With the exception of small procurements under section 514 and emergency procurements under section 516 (relating to emergency procurement), if the sole source procurement is for a supply, except for computer software updates under $50,000, for which the department acts as purchasing agency, it must be approved by the Board of Commissioners of Public Grounds and Buildings prior to the award of a contract.

Section 2. Section 518 of Title 62 is amended by adding a subsection to read:

§ 518. Competitive selection procedures for certain services.

* * *

(a.1) Services of lawyers.--In addition to the other provisions of this section, the procedure for selecting lawyers to perform services shall be subject to the following provisions:

(1) The Office of General Counsel shall:

   (i) Identify categories of legal services or types of cases that may be supplied by outside lawyers.

   (ii) Develop a competitively bid list of pre-approved outside lawyers for emergency situations.

   (iii) Identify the circumstances in which the awarding of legal services under sections 512.1 (relating to competitive electronic auction bidding), 515(a)(5)
(relating to sole source procurement) or this section are permissible.

(iv) Implement a system to award contracts for services of lawyers in accordance with the provisions of this chapter.

(2) When an executive agency determines that the services of an outside lawyer are required, the executive agency shall submit to the Office of General Counsel a written request for authorization to proceed. The request shall include:

(i) A justification that the executive agency is unable to effectively represent an identifiable legal interest of the executive agency, in a matter involving the executive agency, through a lawyer who is employed by an executive agency.

(ii) A detailed estimate of the time and labor that will be required to represent the executive agency in the matter.

(iii) A description of the specific legal skill or expertise needed to represent the executive agency in the matter.

(iv) A determination that the need for the services is cost effective and in the best interest of the public.

(3) The Office of General Counsel shall review the request.

(4) If the Office of General Counsel approves the request, it shall submit a written notice to the executive agency authorizing it to proceed under this section or, if applicable, section 512.1 (relating to competitive electronic auction bidding) in the matter.
(5) If the Office of General Counsel disapproves the request, it shall submit a written notice to the executive agency explaining the reasoning for the disapproval, and the executive agency shall be prohibited from procuring the services of a lawyer under this section or, if applicable, section 512.1 (relating to competitive electronic auction bidding).

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