

No. 2006-88

## AN ACT

HB 2441

Amending Title 62 (Procurement) of the Pennsylvania Consolidated Statutes, further providing for application of part; and providing for electronic bidding by local government units.

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

Section 1. Section 3101 of Title 62 of the Pennsylvania Consolidated Statutes is amended to read:

§ 3101. Application of part.

**[This] Except for Chapter 46 (relating to electronic bidding by local government units), which applies only to local government units, this part applies to government agencies. In the case of Commonwealth agencies, this part shall be read in pari materia with Part I (relating to Commonwealth Procurement Code).**

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

## CHAPTER 46

## ELECTRONIC BIDDING BY LOCAL GOVERNMENT UNITS

Sec.

4601. Short title of chapter.

4602. Definitions.

4603. Electronic bidding.

4604. Competitive electronic auction bidding.

§ 4601. Short title of chapter.

This chapter shall be known and may be cited as the Local Government Unit Electronic Bidding Act.

§ 4602. Definitions.

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

“Local government unit.” A county, city, borough, incorporated town, township, school district, vocational school district, county institution district, home rule municipality, local authority or any joint or cooperative body of local government units or any instrumentality, authority or corporation thereof which has authority to enter into a contract.

§ 4603. Electronic bidding.

Notwithstanding any other provision of law concerning the requirements for competitive bidding for purchases and contracts by a local government unit, a local government unit may permit the electronic submission of bids and may receive bids electronically if the local government unit has the

electronic capability to maintain the confidentiality of the bid until the bid opening time.

§ 4604. Competitive electronic auction bidding.

(a) Conditions for use.—Notwithstanding any other provision of law concerning the requirements for competitive bidding for purchases and contracts, if a local government unit determines by resolution that use of competitive electronic auction bidding is in the best interests of the local government unit, a contract for supplies or services, but not for construction or design professional services, may be entered into by competitive electronic auction bidding.

(b) Invitation for bids.—An invitation for bids shall be issued and shall include a procurement description and all contractual terms, whenever practical, and conditions applicable to the procurement, including a notice that bids will be received in an electronic auction manner.

(c) Public notice.—Public notice and advertisement of the invitation for bids shall be given in the same manner as provided in the law otherwise applicable to the local government unit.

(d) Auctions.—Bids shall be accepted electronically at the time and in the manner designated in the invitation for bids. During the auction, each bidder shall have the capability to view their bid rank or the low bid price. Bidders may reduce their bid prices during the auction. At the conclusion of the auction, the record of the bid prices received and the name of each bidder shall be open to public inspection.

(e) Withdrawal of bids.—After the auction period has terminated, withdrawal of bids shall be permitted by the written determination of the local government unit when the bidder requests relief and presents credible evidence that the reason for the lower bid price was a clerical mistake, as opposed to a judgment mistake, and was actually due to an unintentional arithmetical error or an unintentional omission of a substantial quantity of work, labor, material or services made directly in the compilation of the bid. The request for relief and the supporting evidence must be received by the local government unit within a reasonable time period after the bid opening. The time period shall be specified by the local government unit.

(f) Award.—The contract shall be awarded within 60 days of the auction by written notice to the lowest responsible bidder, or all bids shall be rejected, except as otherwise provided in this section. Extensions of the date for the award may be made by mutual written consent of the local government unit and the lowest responsible bidder.

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

APPROVED—The 7th day of July, A.D. 2006.

EDWARD G. RENDELL