



SPONSOR: Rep. Osienski & Sen. Hansen
Reps. Baumbach, Brady, Briggs King, D. Short, Wilson;
Sen. Henry

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 355

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO STATE PROCUREMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 6902, Title 29 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 6902. Definitions.

4 (9) "Electronic bid" means the bidder, in response to an advertised invitation to bid, submits all
5 documentation, except for information and documents specified in the invitation to bid, only through an electronic
6 process to an identified secure electronic mail account that will not be opened by the Office or an agency until the
7 close of the bidding period. In this process, no hard copy documentation shall be submitted to the Office or an
8 agency prior to the award of the contract.

9 (11) "Electronic submission" means the vendor, in response to an advertised request for proposal, submits
10 all documentation, except for information and documents specified in the request for proposal, only through an
11 electronic process to an identified secure electronic mail account that will not be opened by the Office or an
12 agency until the close of the request for proposal submittal period. In this process, no hard copy, except for
13 information and documents specified in the request for proposal, shall be submitted to the Office or an agency
14 prior to the award of the contract.

15 (18) "On-line bidding method" means a procurement process in which ~~the Office receive~~ the Office or an
16 agency receives vendors' bids ~~for goods and nonprofessional services~~ electronically over the Internet as either a
17 substitute for a hard copy bid submission or in a real-time, competitive bidding event.

18 Section 2. Amend § 6908, Title 29 of the Delaware Code by making deletions as shown by strike through and
19 insertions as shown by underline as follows:

20 § 6908. Section powers and duties.

21 (a) In addition to the powers and duties prescribed by other sections in this chapter, the Section shall do all of the
22 following:

(1) Review and recommend improvements to the State's procurement ~~process;~~ process.

(2) Function as the contracting agent in central or joint contracting for state agencies provided, that, at a minimum, all contracts are awarded in conformance with the requirements of this chapter. The Section is required to meet or exceed the requirements of the ~~agencies;~~ agencies.

(3) Function as a resource for state agencies by providing, on request, procurement information and ~~or assistance;~~ assistance.

(4) Serve as a clearinghouse for procurement information for materiel and services for both agencies and ~~vendors;~~ vendors.

(5) Promulgate rules and regulations to effect this chapter. Such rules and regulations shall be promulgated according to the Administrative Procedures Act in Chapter 101 of this title and shall be approved by the Contracting and Purchasing Advisory ~~Council;~~ Council.

(6) Establish procedures through which all public works contracts, which are paid in whole or in part through public funds, include provisions requiring the contractor, its agents, and employees to implement a mandatory drug testing program for all employees or agents working on the job site in nonclerical positions. Provisions governing mandatory drug testing shall be incorporated into all public works contracts and the rules governing the administration of such tests by the contractor shall be promulgated by the Director pursuant to this ~~subsection; and~~ subsection.

(7) Administer the State's centralized contract development, solicitation, evaluation, and contract administration system on behalf of all agencies.

~~(7)(8)~~ Assume such other powers, ~~duties~~ duties, and functions as the Director of the Office may assign which are not otherwise inconsistent with the laws of this State.

Section 3. Amend § 6923, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6923. Competitive sealed bidding.

(p) Electronic bid submission. —

(1) ~~When~~ If the Office or an agency determines that an electronic bid submission is advantageous, the Office or the agency may use electronic bidding to obtain bids for the purchase of goods and nonprofessional services.

(2) The solicitation ~~shall~~ must designate that the procurement method will be an electronic bid submission, ~~an opening date and time, a closing date and time~~ a schedule of bid activities, and an electronic mail account to which the bidding response must be sent.

(3) ~~The closing date and time shall be fixed.~~ The Office's or the agency's representative and a witness shall open the e-mail account immediately after the closing date and time; record the vendors ~~which~~that submitted bids, the date and time submitted, the bids, and associated prices; and prepare a bid tabulation of all responsive vendors for review.

(r) On-line bidding method. — If the Office or an agency determines that an on-line bidding method is beneficial, the Office or the agency may use an on-line bidding method to obtain and evaluate bids for the purchase of goods and nonprofessional services.

Section 4. Amend § 6962, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6962. Large public works contract procedures.

(d) Bid specifications and plans requirements. —

(13) Bid evaluation, contract award and execution procedure. —

g. Electronic bid submission. —

1. If the Office or an agency determines that an electronic bid submission is beneficial, the Office or the agency may use electronic bidding to obtain bids for public works contracts.

2. The solicitation must designate that the procurement method will be an electronic bid submission, a schedule of bid activities, and an electronic mail account to which the bidding response must be sent.

3. The Office's or the agency's representative and a witness shall open the e-mail account immediately after the closing date and time; record the vendors that submitted bids, the date and time submitted, the bids, and associated prices; and prepare a bid tabulation of all responsive vendors for review.

h. On-line bidding method. — If the Office or an agency determines that an on-line bidding method is beneficial, the Office or the agency may use an on-line bidding method to obtain and evaluate bids for public works contracts.

Section 5. Amend § 6981, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6981 Large professional service procurement process.

(j) If the Office or an agency determines that an electronic bid submission is beneficial, the Office or the agency may use electronic bidding to obtain bids for large professional services contracts.

(1) The solicitation must designate that the procurement method will be an electronic bid submission, a schedule of bid activities, and an electronic mail account to which the bidding response must be sent.

82 (2) The Office's or the agency's representative and a witness shall open the e-mail account immediately after
83 the closing date and time; record the vendors that submitted bids, the date and time submitted, the bids, and associated
84 prices; and prepare a bid tabulation of all responsive vendors for review.

SYNOPSIS

This Act allows an agency, as defined in § 6902 of Title 29, ("agency") to accept electronic bid submissions and on-line bidding for contracts procuring material and nonprofessional services.

This Act also expands the use of electronic bid submission and on-line bidding to be used for large public works contracts and large professional service contracts by the Office of Management and Budget or an agency.

This Act also makes the Section of Government Support Services in the Office of Management and Budget responsible for administering the State's centralized contract development, solicitation, evaluation, and contract administration system on behalf of all agencies.

Finally, this Act makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.