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
AS AMENDED BY
HOUSE AMENDMENT NO. 1

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:

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

§ 6902. Definitions.

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

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

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

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

§ 6908. Section powers and duties.

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(a) In addition to the powers and duties prescribed by other sections in this chapter, the Section shall do all of the 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 on behalf of all agencies the State's centralized procurement computer system or software that is used for contract development, solicitation, evaluation, and contract administration. The Section may, with written approval of the Director, authorize an agency to operate, with approved integration, a separate bidding or contract administration platform provided that all information is readily shared with the statewide portal managed by the Section.

~~(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 or electronic submission. —

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

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

3. The Office's or the agency's representative and a witness shall open the electronic mail account immediately after the closing date and time; record the names of the vendors that responded, the date and time submitted, and the bids or associated prices; and prepare a 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. The Office or agency must indicate the method in the solicitation.

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 submission is beneficial, the Office or the agency may use this method to obtain proposals for large professional services contracts.

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

(2) The Office's or the agency's representative and a witness shall open the electronic mail account immediately after the closing date and time; record the names of the vendors that responded and the date and time submitted; and prepare a tabulation of all responsive vendors for review.