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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004



ENROLLED

House Bill No. 4559

(By Delegates Beane, Walters and Webster)



Passed March 11, 2004

In Effect Ninety Days from Passage

FILED

2004 APR -7 P 2:25

OFFICE WEST VIRGINIA
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COMMITTEE SUBSTITUTE

FOR

H. B. 4559

(BY DELEGATES BEANE, WALTERS AND WEBSTER)

[Passed March 11, 2004; in effect ninety days from passage.]

AN ACT to amend and reenact §8-27-23 of the code of West Virginia, 1931, as amended, relating generally to the procurement of supplies, equipment, materials and contracts for the construction of facilities by urban mass transportation systems.

Be it enacted by the Legislature of West Virginia:

That §8-27-23 of the code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 27. INTERGOVERNMENTAL RELATIONS—URBAN MASS
TRANSPORTATION SYSTEMS.**

**§8-27-23. Competitive bids; publication of solicitation for sealed
bids.**

- 1 (a) Any contract for the construction of facilities by any
- 2 authority, when the expenditure required exceeds the sum of ten

3 thousand dollars, shall be based solely on competitive sealed
4 bids.

5 (b) Except as provided below, the procurement of all
6 supplies, equipment and materials, where the expenditure
7 required exceeds the sum of ten thousand dollars, shall be based
8 on the competitive procedure that is best suited under the
9 circumstances of the procurement.

10 (c) In determining the competitive bid procedures that is
11 best suited under the circumstances, an authority shall conduct:

12 (1) Competitive sealed bidding if:

13 (A) Time permits a competitive bid process to be used;

14 (B) The award of the bid will be made primarily on price
15 and price-related factors;

16 (C) It is likely to be unnecessary to conduct discussions
17 with suppliers regarding bids, including discussions regarding
18 price; and

19 (D) There is a reasonable expectation of receiving more
20 than one sealed bid; or

21 (2) Competitive negotiation where competitive sealed
22 bidding is not best suited under the circumstances.

23 (d) Notwithstanding the provisions of subsections (b) and
24 (c) of this section, an authority may provide for the procure-
25 ment of property or services covered by this section using other
26 than competitive procedures only when:

27 (1) The property or services needed are available only from
28 one responsible source and no other type of property or service
29 will satisfy the authority's needs;

30 (2) The authority's need for the property or service is
31 urgent, unusual and compelling because the authority would be
32 seriously injured unless the authority is permitted to limit the
33 number of sources from which it solicits;

34 (3) It is necessary to award a contract to a particular source
35 or sources in order to maintain a facility, producer, manufac-
36 turer or other supplier in case of emergency; or

37 (4) It is necessary to establish or maintain an alternative
38 source or sources of supply for the property or service to
39 increase or maintain competition.

40 (e) All sealed bids or competitive negotiated proposals
41 received in response to a solicitation or request for bid may be
42 rejected if an authority determines that the action is in the
43 public interest.

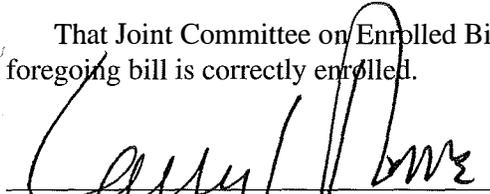
44 (f) Sealed bids shall be opened publicly at the time and
45 place stated in the solicitation and the authority shall evaluate
46 the bids without discussions with bidders and award a contract
47 with reasonable promptness to the responsible source whose bid
48 conforms to the solicitation and is most advantageous to the
49 authority, considering only price and other price-related factors
50 included in the solicitation.

51 (g) The evaluation of competitive proposals may include
52 written or oral discussions conducted with all responsible
53 bidders or suppliers at any time after receipt of the proposals
54 and before the award or may be made without discussions. In
55 either event, the award shall be made to the lowest responsible
56 bidder or supplier.

57 (h) Adequate public notice of the solicitation of bids and
58 proposals shall be given. Public notice shall be given not less
59 than seven days before the date set for bid opening or, in the
60 case of competitive negotiation, not less than seven days before

61 the due date for receipt of proposals: *Provided*, That bids for the
62 construction of facilities shall be obtained by public notice
63 published as a Class I legal advertisement in compliance with
64 the provisions of article three, chapter fifty-nine of this code,
65 with such publication being made at least fourteen days before
66 the final date for submitting bids.

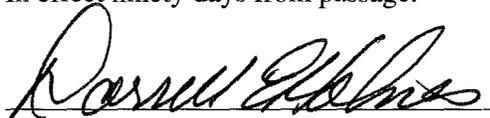
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee


Chairman House Committee

Originating in the House.

In effect ninety days from passage.

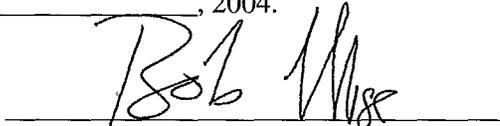

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within w approved this the 7th
day of April, 2004.


Governor

PRESENTED TO THE

GOVERNOR

DATE

3/22/04

TIME

9:30am