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
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 authority, when the expenditure required exceeds the sum of ten
thousand dollars, shall be based solely on competitive sealed
bids.

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

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

(1) Competitive sealed bidding if:

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

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

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

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

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

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

(1) The property or services needed are available only from
one responsible source and no other type of property or service
will satisfy the authority’s needs;
(2) The authority's need for the property or service is urgent, unusual and compelling because the authority would be seriously injured unless the authority is permitted to limit the number of sources from which it solicits;

(3) It is necessary to award a contract to a particular source or sources in order to maintain a facility, producer, manufacturer or other supplier in case of emergency; or

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

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

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

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

(h) Adequate public notice of the solicitation of bids and proposals shall be given. Public notice shall be given not less than seven days before the date set for bid opening or, in the case of competitive negotiation, not less than seven days before
the due date for receipt of proposals: Provided, That bids for the
construction of facilities shall be obtained by public notice
published as a Class I legal advertisement in compliance with
the provisions of article three, chapter fifty-nine of this code,
with such publication being made at least fourteen days before
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 was approved this the 7th day of April, 2004.

Governor
PRESENTED TO THE
GOVERNOR/ 3/22/04
DATE 9:30A.M.
TIME