



At issue in the instant case is the applicability of the Commonwealth Procurement Code, 62 Pa. C.S.A. §§ 101, et seq (“the Code”), which governs the awarding of contracts by commonwealth agencies. The Code permits a rejected bidder to bring an action for money damages under limited circumstances, provided that the bidder first seek review at the administrative level. Prior to the enactment of the Code, a rejected bidder had no right to money damages. Whether or not the Code applies is dependent on whether PRPA is determined to be a “commonwealth agency” as defined in the act. Much time and argument was spent on this issue; however, its determination is actually of little consequence. In short, if PRPA is a commonwealth agency, the Code applies. If the Code applies, then NCS was required to first exhaust its administrative remedies under the Code, which it admits it failed to do. If PRPA is not a Commonwealth agency, then the Code does not apply, and NCS has no remedy.

Plaintiff concedes that prior to the enactment of the Procurement Code no remedy existed for a rejected bidder. Plaintiff argues that it is not subject to the requirements of the act, yet seeks to avail itself of the remedy the act provides. Asserting that the “aura” of the act provides a remedy, plaintiff argues that the legislature sought to broaden the remedies available to rejected bidders. This contradicts the well-established rule that legislation is to be strictly construed. If the legislature had meant to make a broader remedy available, it would have so provided within the terms of the statute. Consequently, we are constrained to conclude that if the plaintiff wished to avail itself of the relief afforded by the Commonwealth Procurement Code, it was required to follow the procedures in the Code, and exhaust all administrative remedies before bringing this action. Plaintiff’s failure to pursue timely the grievance procedure established by the Code required the dismissal of the complaint herein.

For all of the above reasons, the order of October 2, 2000, sustaining PRPA's preliminary objection's to NCS's complaint should be affirmed.

By the Court:

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Myrna Field, J.