

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 640

Session of
1987

INTRODUCED BY GODSHALL, LLOYD, KUKOVICH, OLASZ, WOGAN, MRKONIC,
D. W. SNYDER, YANDRISEVITS, NOYE, BATTISTO, FOX, DISTLER,
CARLSON, PRESSMANN, TRELLO, HERSHEY, VROON, WOZNIAK,
COLAFELLA, BALDWIN, HECKLER, LANGTRY AND PHILLIPS,
MARCH 4, 1987

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, FEBRUARY 9, 1988

AN ACT

1 Amending the act of June 24, 1931 (P.L.1206, No.331), entitled
2 "An act concerning townships of the first class; amending,
3 revising, consolidating, and changing the law relating
4 thereto," restricting certain persons from bidding on
5 contracts.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 1802 of the act of June 24, 1931
9 (P.L.1206, No.331), known as The First Class Township Code,
10 reenacted and amended May 27, 1949 (P.L.1955, No.569), is
11 amended by adding subsections to read:

12 Section 1802. General Regulations Concerning Contracts.--* *

13 *

14 (g) No person who or entity which, as a contractor or
15 subcontractor, supplied goods or services to a government or
16 government instrumentality and has been convicted of, or has
17 pleaded guilty or nolo contendere to, a Federal or State crime

involving fraud upon a government or a government instrumentality for acts or omissions arising out of the supplying of goods or services, and no entity in which that person or entity has a substantial interest, may bid on a contract for a period of three years after such conviction or plea. For purposes of this subsection, the following words and phrases shall have the following meanings:

(1) "Crime" means any criminal act committed after the effective date of this amendatory act for which the maximum possible penalty exceeds a fine of three hundred dollars (\$300) or exceeds imprisonment for ninety days.

(2) "Entity" means any association, corporation, limited partnership, partnership, or other business or nonprofit organization.

(3) "Fraud" includes, but is not limited to:

(i) A misrepresentation of a material fact that is not made honestly and in good faith.

(ii) A promise, representation or prediction as to the future that is not made honestly and in good faith.

(iii) An intentional failure to disclose a material fact.

(iv) A fictitious or pretended purchase or sale of a security.

(v) The gaining, through the sale of a security, of an underwriting or promotion fee or profit or a selling or managing fee or profit that is so gross or exorbitant as to be unconscionable. This includes a scheme, device or artifice to obtain such a profit, fee or commission.

(vi) A scheme, device or artifice to defraud a prospective or actual customer, client or subscriber of securities, money or property.

1 (4) "State" means the District of Columbia and any
2 possession, state, territory or trusteeship of the United
3 States.

4 (5) "Substantial interest" means serving as a director,
5 limited partner, officer, partner or proprietor, or owning more
6 than ten per centum of the number of shares of voting stock or
7 more than twenty per centum of the total number of shares of
8 stock.

9 ~~(h) In the case of a bid involving the collection,~~ <—
10 ~~transportation, treatment, storage or disposal of solid waste or~~
11 ~~hazardous waste under the act of July 7, 1980 (P.L.380, No.97),~~
12 ~~known as the "Solid Waste Management Act," the following shall~~
13 ~~apply:~~

14 ~~(1) A bid may be rejected by the authorizing authorities if~~
15 ~~one of the following applies:~~

16 ~~(i) The authorizing authorities have reason to believe that~~
17 ~~the bidder's responsibility, character and general fitness for~~
18 ~~business do not command the confidence of the public and may not~~
19 ~~be conducive to the honest and efficient conduct of business in~~
20 ~~the best interest of the public.~~

21 ~~(ii) The bidder's prior performance record in the~~
22 ~~collection, transportation, treatment, storage or disposal of~~
23 ~~solid waste exhibited insufficient reliability, expertise or~~
24 ~~competency to warrant the belief that the bidder would be likely~~
25 ~~to exhibit sufficient reliability, expertise or competence with~~
26 ~~respect to the contract being bid.~~

27 ~~(2) The township may require the following information to be~~
28 ~~submitted with the bid:~~

29 ~~(i) If the bidder has an equity interest in a company which~~
30 ~~collects, transports, treats, stores or disposes of solid waste~~

~~or hazardous waste, the name and address of that company.~~

~~(ii) A description of the bidder's experience and credentials in collection, transportation, treatment, storage or disposal of solid waste or hazardous waste. This includes past or present licenses.~~

~~(iii) If the bidder is an entity, the names of the officers and directors or partners.~~

~~(iv) A list and explanation of Federal, State and local notices of violation, prosecutions, administrative orders and license revocations for the ten years immediately preceding the bid submission, if the action is pending or has resulted in a finding or a settlement of a violation of law by the bidder or its employees, and, in the case of an entity, by an officer or director or a partner, relating to the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste.~~

~~(v) A list and explanation of judgments of civil liability and convictions against the bidder or its employees and, in the case of an entity, against an officer or director or a partner.~~

~~(vi) A list of agencies outside of this Commonwealth which had regulatory authority over the bidder in connection with the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste.~~

~~(vii) Other information that the authorizing authorities deem relevant to the competency, reliability or good character of the bidder.~~

~~(i) (H) The township may require the following information to be submitted with the bid: a sworn statement by the bidder and, if the affiant is an entity, by every person or entity having a substantial interest therein, listing all Federal and~~

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1 state convictions of, and pleas of guilty or nolo contendere to,
2 any crime within three years prior to the date of the statement,
3 said statement to be dated no more than one week prior to the
4 date set for the opening of bids.

5 Section 2. This act shall take effect in 60 days.