

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 642

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 9,
1987

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MARCH 9, 1987

AN ACT

1 Amending the act of May 1, 1933 (P.L.103, No.69), entitled "An
2 act concerning townships of the second class; and 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 802 of the act of May 1, 1933 (P.L.103,
9 No.69), known as The Second Class Township Code, reenacted and
10 amended July 10, 1947 (P.L.1481, No.567), is amended by adding
11 subsections to read:

12 Section 802. Letting Contracts.--* * *

13 (i) No person who or entity which, as a contractor or
14 subcontractor, supplied goods or services to a government or
15 government instrumentality and has been convicted of, or has
16 pleaded guilty or nolo contendere to, a Federal or State crime
17 involving fraud upon a government or a government
18 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.

(4) "State" means the District of Columbia, and any
possession, state, territory or trusteeship of the United

1 States.

2 (5) "Substantial interest" means serving as a director,
3 limited partner, officer, partner or proprietor, or owning more
4 than ten per centum (10%) of the number of shares of voting
5 stock or more than twenty per centum (20%) of the total number
6 of shares of stock.

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

12 (1) A bid may be rejected by the township if one of the
13 following applies:

14 (i) The township has reason to believe that the bidder's
15 responsibility, character and general fitness for business do
16 not command the confidence of the public and may not be
17 conducive to the honest and efficient conduct of business in the
18 best interest of the public.

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

25 (2) The township may require the following information to be
26 submitted with the bid:

27 (i) If the bidder has an equity interest in a company which
28 collects, transports, treats, stores or disposes of solid waste
29 or hazardous waste, the name and address of that company.

30 (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 township deems relevant to the competency, reliability or good character of the bidder.

(k) 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 state convictions of, and pleas of guilty or nolo contendere to, any crime within three years prior to the date of the statement, said statement to be dated no more than one week prior to the

1 date set for the opening of bids.

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