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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2357

Session of  
1978

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INTRODUCED BY MESSRS. IRVIS AND MEBUS, APRIL 11, 1978

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SENATOR LEWIS, LOCAL GOVERNMENT, IN SENATE, AS AMENDED,  
SEPTEMBER 18, 1978

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AN ACT

1 Amending the act of May 27, 1953 (P.L.244, No.34), entitled "An  
2 act relating to and regulating the contracts of incorporated  
3 towns and providing penalties," further regulating contracts  
4 and further providing for advertising requirements.

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

7 Section 1. Subsections (a) and (d) of section 2 and sections  
8 3, 3.1 and 5, act of May 27, 1953 (P.L.244, No.34), entitled "An  
9 act relating to and regulating the contracts of incorporated  
10 towns and providing penalties," amended November 23, 1976  
11 (P.L.1143, No.247), are amended and section 2 is amended by  
12 adding a subsection to read:

13 Section 2. Regulation of Contracts.--(a) All contracts or  
14 purchases of incorporated towns in excess of [two thousand  
15 dollars] two thousand five hundred dollars, except those  
16 hereinafter mentioned, shall not be made except with and from  
17 the lowest responsible bidder, after due notice in one newspaper  
18 of general circulation published or circulated in the county in

1 which the town is situated at least three times at intervals of  
2 not less than three days where daily newspapers of general  
3 circulation are available for such publication, and in case of  
4 weekly newspapers shall be published once a week for two  
5 successive weeks. The first advertisement shall be published not  
6 less than ten days prior to the date fixed for the opening of  
7 bids. The amount of the contract shall in all cases, whether of  
8 straight sale price, conditional sale, bailment lease or  
9 otherwise, be the entire amount which the town pays to the  
10 successful bidder or his assigns in order to obtain the services  
11 or property or both, and shall not be construed to mean only the  
12 amount which is paid to acquire title or to receive any other  
13 particular benefit or benefits of the whole bargain.

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15 (d) The contracts or purchases made by council involving an  
16 expenditure of over [two thousand dollars] two thousand five  
17 hundred dollars which shall not require advertising or bidding  
18 as hereinbefore provided are as follows:

19 (1) Those for maintenance, repairs or replacements for  
20 water, sewer, electric light or other public works of the  
21 incorporated town, provided they do not constitute new  
22 additions, extensions or enlargements of existing facilities and  
23 equipment, but a bond may be required by council as in other  
24 cases of work done.

25 (2) Those made for improvements, repairs and maintenance of  
26 any kind made or provided by any incorporated town through its  
27 own employees: Provided, That all materials used for street  
28 improvement, maintenance and/or construction in excess of [two  
29 thousand dollars] two thousand five hundred dollars be subject  
30 to the advertising requirements contained herein.

1 (3) Those where particular types, models or pieces of new  
2 equipment, articles, apparatus, appliances, vehicles or parts  
3 thereof are desired by council, which are patented and  
4 manufactured or copyrighted products.

5 (4) Those involving any policies of insurance or surety  
6 company bonds; those made for public utility service under  
7 tariffs on file with the Pennsylvania Public Utility Commission;  
8 those made with another political subdivision, or a county, the  
9 Commonwealth of Pennsylvania, the Federal Government, any agency  
10 of the Commonwealth or the Federal Government, or any municipal  
11 authority, including the sale, leasing or loan of any supplies  
12 or material by the Commonwealth or the Federal Government or  
13 their agencies. But the price thereof shall not be in excess of  
14 that fixed by the Commonwealth, the Federal Government, or their  
15 agencies.

16 (5) Those involving personal or professional services.

17 ~~(c) Every contract for the construction, reconstruction,~~ <—  
18 ~~repair, improvement or maintenance of public works shall contain~~  
19 ~~a provision that any steel products used or supplied in the~~  
20 ~~performance of the contract or any subcontracts thereunder shall~~  
21 ~~be from steel made in the United States.~~

22 (E) EVERY CONTRACT FOR THE CONSTRUCTION, RECONSTRUCTION, <—  
23 ALTERATION, REPAIR, IMPROVEMENT OR MAINTENANCE OF PUBLIC WORKS  
24 SHALL COMPLY WITH THE PROVISIONS OF THE ACT OF MARCH 3, 1978  
25 (NO.3), KNOWN AS THE "STEEL PRODUCTS PROCUREMENT ACT."

26 Section 3. Evasion of Advertising Requirements.--No member  
27 or members of council shall evade the provisions of Section two  
28 hereof by purchasing or contracting for services and personal  
29 properties piecemeal for the purpose of obtaining prices under  
30 [two thousand dollars] two thousand five hundred dollars upon

1 transactions which transaction should, in the exercise of  
2 reasonable discretion and prudence, be conducted as one  
3 transaction amounting to more than [two thousand dollars] two  
4 thousand five hundred dollars. This provision is intended to  
5 make unlawful the evading of advertising requirements by making  
6 a series of purchases or contracts each for less than the  
7 advertising requirement of price, or by making several  
8 simultaneous purchases or contracts each below said price, when,  
9 in either case, the transactions involved should have been made  
10 as one transaction for one price. Any members of council who so  
11 vote in violation of this provision and who know that the  
12 transaction upon which they so vote is or ought to be a part of  
13 a larger transaction and that it is being divided in order to  
14 evade the requirements as to advertising for bids shall be  
15 jointly and severally subject to surcharge for ten per centum of  
16 the full amount of the contract or purchase.

17 Whenever it shall appear that a member of council may have  
18 voted in violation of this section but the purchase or contract  
19 on which he so voted was not approved by council, this section  
20 shall be inapplicable.

21 Section 3.1. Contracts between Seven Hundred Fifty Dollars  
22 and [Two Thousand Dollars] two thousand five hundred dollars;  
23 Written Bids.--In all cases of contracts or purchases, other  
24 than the kinds mentioned in clauses (1) to (5) inclusive of  
25 subsection (d) of section 2 of this act, from seven hundred  
26 fifty dollars to [two thousand dollars] two thousand five  
27 hundred dollars inclusive, whether made by the town council or  
28 by an officer or appointee of the town, written bids shall be  
29 solicited therefor; and no such contract or purchase shall be  
30 made for the town except upon at least three such written bids.

1 The specifications upon which bids are solicited shall be  
2 uniform in so far as possible to afford equal opportunity for  
3 bidding. Catalogues and circulars of firm prices shall be  
4 acceptable as bids upon the contracts or purchases herein  
5 regulated. All such bids shall be retained in the proper  
6 department or office for a period of at least two months, and  
7 shall be reported monthly to the person designated by the town  
8 council, who shall make a consolidated monthly report thereof to  
9 council. The town council and the person designated by the town  
10 council shall have access to the bids in all departments and  
11 offices of the town for the enforcement of this provision. Any  
12 official or appointee of the town contracting or purchasing in  
13 violation of the provision of this section shall be liable upon  
14 his bond, if any, or personally, in the full amount of the  
15 purchase or contract so made, and the town council may avoid any  
16 such purchase or contract.

17 Section 5. Separate Bids for Plumbing, Heating, Ventilating  
18 and Electrical Work.--In the preparation for the erection,  
19 construction and alteration of any public building of an  
20 incorporated town, when the entire cost of such work shall  
21 exceed [two thousand dollars] two thousand five hundred dollars,  
22 the architect, engineer or other person preparing such  
23 specifications shall prepare separate specifications for the  
24 plumbing, heating, ventilating and electrical work. The person  
25 or persons authorized to enter into contracts for the erection,  
26 construction or alteration of such public buildings shall  
27 receive separate bids upon each of the said branches of work and  
28 award the contract for the same to the lowest responsible bidder  
29 for each of said branches.

30 ~~Section 2. The provisions of this act shall be construed in~~ <—

1 ~~a manner consistent with the act of March 3, 1978 (No.3), known~~  
2 ~~as the "Steel Products Procurement Act."~~

3     Section ~~3-~~ 2.   This act shall take effect in 60 days.

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