

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2089 Session of 2011

INTRODUCED BY WHEATLEY AND PARKER, DECEMBER 19, 2011

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, DECEMBER 19, 2011

AN ACT

1 Amending the act of February 1, 1966 (1965 P.L.1656, No.581),
2 entitled "An act concerning boroughs, and revising, amending
3 and consolidating the law relating to boroughs," providing
4 for contracts to promote participation.

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

7 Section 1. The act of February 1, 1966 (1965 P.L.1656,
8 No.581), known as The Borough Code, is amended by adding a
9 section to read:

10 Section 1402.1. Contracts to Promote Participation.--(a)
11 The council of each borough shall develop, adopt and implement
12 binding policies or guidelines to ensure that all persons are
13 accorded equal opportunity in purchasing, contracting and
14 subcontracting associated with the construction, reconstruction,
15 alteration, improvement, repair or maintenance of any building
16 or other structure or for the completion of any project or
17 performance of any other work whatsoever and the purchasing of
18 any materials, equipment or any other supplies for the use of
19 the borough.

1 (b) Every contract for or on behalf of a borough for the
2 construction, alteration, improvement, repair or maintenance of
3 any public building or public work shall contain provisions by
4 which the contractor agrees to promote, increase and sustain
5 contracting and subcontracting opportunities for disadvantaged
6 businesses.

7 (c) The borough council shall ensure that a written record
8 is made of each written price quotation or telephonic price
9 quotation that requires advertisement and competitive bidding.
10 Written price quotations, telephonic price quotations and
11 memoranda shall be retained for a period of three years. The
12 record shall include, but not be limited to:

13 (1) The date of the quotation.

14 (2) The name and address of any disadvantaged small business
15 involved in the performance of the contract or acquisition of
16 materials, equipment or other supplies.

17 (3) Information concerning the subject contract or the
18 purchase of materials and supplies which were the subject of the
19 price quotation.

20 (4) The money value of the contract or the materials or
21 supplies.

22 (d) This section shall apply to:

23 (1) Any borough contract which is subject to competitive
24 bidding in accordance with this article.

25 (2) Any written or telephonic price quotation which requires
26 advertisement and competitive bidding in accordance with the
27 requirements of this article.

28 (3) All borough contractors, subcontractors, assignees,
29 lessees, agents, vendors and suppliers.

30 (4) Disadvantaged businesses.

1 (e) The council may use the lists of certified minority-
2 owned, women-owned and veteran-owned business enterprises which
3 have been certified under the Department of General Services'
4 disadvantaged business program to compete for and participate in
5 the borough's contracting process. The Department of General
6 Services shall cooperate with and assist the council in carrying
7 out the requirements of this subsection.

8 (f) For the purpose of this section, the following words and
9 phrases shall have the meaning given to them in this subsection
10 unless the context clearly indicates otherwise:

11 "Disadvantaged business" shall mean a small business which
12 is owned or controlled by a majority of persons, not limited to
13 members of minority groups, who:

14 (1) have been deprived of the opportunity to develop and
15 maintain a competitive position in the economy because of social
16 disadvantages; or

17 (2) are veterans, including service-disabled veterans.

18 "Service-disabled veteran" shall mean a veteran who
19 possesses either an adjudication letter from the Department of
20 Veterans Affairs establishing a service-connected disability
21 rating or a disability determination from the Department of
22 Defense.

23 "Small business" shall have the meaning given to it in 62
24 Pa.C.S. § 2102 (relating to definitions).

25 "Veteran" shall mean an individual who:

26 (1) served in the active United States Armed Forces in any
27 of the four current branches and all previous branches,
28 including a reserve component or the National Guard;

29 (2) was released or discharged from active military service
30 under conditions other than dishonorable; and

1 (3) possesses a certificate of release or discharge from
2 active duty.
3 Section 2. This act shall take effect in 60 days.