

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1849 Session of 2017

INTRODUCED BY BLOOM, B. MILLER, DUNBAR, RYAN, MCGINNIS, LAWRENCE, IRVIN, GREINER, MENTZER, KAUFFMAN, HICKERNELL, SAYLOR, KEEFER, GROVE, WARD, COX, M. K. KELLER, SACCONI, TALLMAN, ZIMMERMAN, ROTHMAN, MARSICO, MILNE, DELOZIER, DIAMOND, METCALFE, PHILLIPS-HILL, CUTLER, RAPP, BENNINGHOFF, KNOWLES, NELSON, FEE, SONNEY AND MACKENZIE, OCTOBER 10, 2017

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 13, 2018

AN ACT

1 Providing for open contracting by the Commonwealth and its
2 political subdivisions and their agencies and authorities.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Public Works
7 Open Contracting Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Public body." The Commonwealth or any of its political
13 subdivisions, or an agency or authority of either.

14 "Public works." Construction, reconstruction, demolition,
15 alteration or repair work, other than routine maintenance work,

1 contracted for by a public body.

2 ~~"Responsible bidder." A person, partnership or corporation~~ <--
3 ~~that has the capability in all respects to fully perform the~~
4 ~~contract requirements and has the integrity and reliability that~~
5 ~~will assure good faith performance.~~

6 Section 3. Prohibited practices.

7 Contract specifications issued by a public body soliciting
8 bids OR PROPOSALS on a public works project may not include any <--
9 of the following:

10 (1) A requirement that a successful bidder OR A <--
11 SUCCESSFUL OFFEROR or any of its subcontractors utilize
12 workers:

13 (i) represented by a designated labor organization;

14 or

15 (ii) referred by a designated labor organization.

16 (2) A requirement that a successful bidder's existing
17 work force or any of its subcontractors' work forces
18 affiliate with or pay dues to a labor organization.

19 (3) A requirement that a successful bidder OR A <--
20 SUCCESSFUL OFFEROR or any of its subcontractors recognize a
21 labor organization as the exclusive representative of any of
22 its employees on the public works project.

23 Section 4. Discrimination prohibited.

24 No public body may consider or use as a criterion in its
25 selection process the union or nonunion status of a bidder's OR <--
26 OFFEROR'S work force.

27 Section 5. Enforcement.

28 (a) General rule.--A party who is aggrieved by an act
29 committed by a public body in violation of section 3 or 4 may
30 file an action in a court of competent jurisdiction to enjoin

1 the act.

2 (b) Damages and attorney fees.--A court of competent
3 jurisdiction may award damages and reasonable attorney fees to
4 an aggrieved party that is successful in an action filed under
5 subsection (a).

6 SECTION 6. APPLICABILITY.

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7 THIS ACT SHALL APPLY TO A NEW SOLICITATION FOR BIDS OR
8 PROPOSALS AFTER THE EFFECTIVE DATE OF THIS SECTION.

9 Section ~~6~~ 7. Effective date.

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10 This act shall take effect in 60 days.