

AMENDMENTS TO HOUSE BILL NO. 201

Sponsor: REPRESENTATIVE NEUMAN

Printer's No. 205

1 Amend Bill, page 1, line 3, by inserting after "proposals"
2 ; and, in ethics in public contracting, further providing for
3 policy, and providing for definitions and for contributions by
4 applicants and contractors

5 Amend Bill, page 1, lines 6 and 7, by striking out all of
6 said lines and inserting

7 Section 1. Sections 513(e) and 2301 of Title 62 of the
8 Pennsylvania Consolidated Statutes are amended to read:

9 Amend Bill, page 1, by inserting after line 17

10 § 2301. Policy.

11 Public employment is a public trust. It is the policy of this
12 Commonwealth to promote and balance the objective of protecting
13 government integrity and the objective of facilitating the
14 recruitment and retention of personnel needed by this
15 Commonwealth. Implementation of this policy requires that public
16 employees discharge their duties impartially so as to assure
17 fair competitive access to Commonwealth agency procurement by
18 responsible contractors and that they conduct themselves in a
19 manner that fosters public confidence in the integrity of the
20 Commonwealth procurement process. It is also essential that
21 those doing business with the Commonwealth agencies observe high
22 standards of honesty and integrity. The General Assembly
23 declares that banning all types of political campaign
24 contributions by a contractor and those who desire to be a
25 contractor is necessary to prevent corruption and the appearance
26 of corruption that may arise when political campaign
27 contributions and the awarding of contracts with the
28 Commonwealth are intermingled.

29 Section 2. Title 62 is amended by adding sections to read:
30 § 2301.1. Definitions.

31 The following words and phrases when used in this chapter
32 shall have the meanings given to them in this section unless the
33 context clearly indicates otherwise:

34 "Affiliate." Any of the following:

35 (1) A parent, subsidiary or otherwise affiliated entity

1 of an applicant or a contractor.

2 (2) An officer, director, associate, controlling
3 shareholder, individual owner, partner or limited partner of
4 an applicant or a contractor.

5 (3) An officer, director, associate, controlling
6 shareholder, individual owner, partner or limited partner of
7 a parent, subsidiary or otherwise affiliated entity of an
8 applicant or a contractor.

9 (4) A political committee controlled by an applicant or
10 a contractor.

11 (5) A political committee controlled by a parent,
12 subsidiary or otherwise affiliated entity of an applicant or
13 a contractor.

14 (6) A member of the immediate family of an individual
15 described in paragraphs (1), (2), (3), (4) and (5).

16 "Applicant." A bidder, offeror or other person seeking a
17 contract, which is to be awarded under section 513 (relating to
18 competitive sealed proposals), 514 (relating to small
19 procurements), 515 (relating to sole source procurement), 516
20 (relating to emergency procurement), 518 (relating to
21 competitive selection procedures for certain services) or 519
22 (relating to selection procedure for insurance and notary
23 bonds).

24 "Elected official." An individual elected by the public to
25 serve a term in an elective office. The term shall include an
26 individual appointed to fill an unexpired term in an elective
27 office.

28 "Elective office." A position in a governmental body to
29 which an individual is required under the Constitution of the
30 Commonwealth or by State law to be elected by the public.

31 "Immediate family." A parent, spouse, child, brother or
32 sister.

33 "Prohibited contribution." Any of the following:

34 (1) A contribution made by an applicant or contractor or
35 an affiliate of an applicant or a contractor to:

36 (i) a candidate for nomination or election to an
37 elective office or to the candidate's political
38 committee;

39 (ii) an elected official or to the elected
40 official's candidate political committee; or

41 (iii) a political committee not described in
42 subparagraph (i) with the purpose and intent that the
43 political committee will, directly or indirectly, make
44 the contribution available to a candidate for nomination
45 or election to an elective office or to the candidate's
46 political committee, or to an elected official or the
47 elected official's candidate political committee.

48 (2) A contribution made by a person to a candidate for
49 nomination or election to an elective office or to the
50 candidate's political committee, or to an elected official or
51 to the elected official's candidate political committee, for

1 which a person who is an applicant or contractor or any of
2 their respective affiliates acts as an intermediary.

3 § 2304. Contributions by applicants and contractors.

4 (a) Applicants.--

5 (1) No Commonwealth agency may award a contract to an
6 applicant under section 513 (relating to competitive sealed
7 proposals), 514 (relating to small procurements), 515
8 (relating to sole source procurement), 516 (relating to
9 emergency procurement), 518 (relating to competitive
10 selection procedures for certain services) or 519 (relating
11 to selection procedure for insurance and notary bonds) if the
12 applicant or an affiliate of the applicant has made a
13 prohibited contribution within four years prior to becoming
14 an applicant.

15 (2) Except as provided in paragraph (3), an applicant
16 shall submit a signed affidavit to the agency with other bid
17 or proposal materials relating to the contract on or prior to
18 the time and date established by the agency for receipt of
19 bids or proposals. The affidavit shall be made under oath and
20 shall state that neither the applicant nor any of the
21 applicant's affiliates has made a prohibited contribution
22 within four years prior to the applicant's becoming an
23 applicant.

24 (3) For contracts to be awarded under section 514, 515
25 or 516 that do not require the submission of bids or offers,
26 an applicant shall submit a signed affidavit as directed by
27 the agency, but prior to the agency's award of the contract.

28 (4) A bid or offer made without a signed affidavit shall
29 not be considered a responsive bid or offer.

30 (b) Contractors.--

31 (1) A contractor who has been awarded a contract under
32 section 513, 514, 515, 516, 518 or 519 shall not make a
33 prohibited contribution and shall prohibit the contractor's
34 affiliates from making a prohibited contribution, during the
35 term of the contract.

36 (2) Each contract awarded under section 513, 514, 515,
37 516, 518 or 519 shall contain a provision requiring the
38 contractor to submit a signed affidavit made under oath,
39 stating that the contractor and all of its affiliates are in
40 compliance with the requirements of paragraph (1). The
41 affidavit shall be submitted at the commencement of the
42 contract, on each anniversary of the commencement of the
43 contract and upon expiration of the contract.

44 (c) Form of affidavit.--

45 (1) The Department of General Services shall develop the
46 form of affidavit to be used by applicants and contractors
47 under this section.

48 (2) All invitations for bids, requests for proposals and
49 other agency communications with prospective contractors
50 regarding a contract awarded under section 513, 514, 515,
51 516, 518 or 519 shall include an affidavit form and

1 information regarding the prohibitions contained under this
2 section.

3 (3) The Department of General Services and the
4 Department of State shall post the affidavit form and
5 information regarding the prohibitions of this section on
6 their respective publicly accessible Internet websites and
7 shall otherwise make the forms and information available upon
8 request.

9 (d) Penalties.--An applicant, contractor or affiliate of a
10 contractor who submits a false affidavit or makes a prohibited
11 contribution in violation of this section may, in addition to
12 penalties imposed by law other than under this section, be
13 debarred or suspended under section 531 (relating to debarment
14 or suspension).

15 (e) Application of section.--This section shall apply to
16 bids, offers or proposals that are solicited, and contracts that
17 are awarded, on or after the effective date of this section.

18 Amend Bill, page 2, line 1, by striking out "2" and inserting

19 3

20 Amend Bill, page 2, line 1, by striking out "in 60 days" and
21 inserting

22 immediately