

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2357 Session of
1978

INTRODUCED BY IRVIS AND MEBUS, APRIL 11, 1978

REFERRED TO COMMITTEE ON URBAN AFFAIRS, APRIL 11, 1978

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 as to 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 to read:

12 Section 2. Regulation of Contracts.--(a) All contracts or
13 purchases of incorporated towns in excess of [two thousand
14 dollars] five thousand dollars, except those hereinafter
15 mentioned, shall not be made except with and from the lowest
16 responsible bidder, after due notice in one newspaper of general
17 circulation published or circulated in the county in which the
18 town is situated at least three times at intervals of not less
19 than three days where daily newspapers of general circulation

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

12 * * *

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

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

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

29 (3) Those where particular types, models or pieces of new
30 equipment, articles, apparatus, appliances, vehicles or parts

1 thereof are desired by council, which are patented and
2 manufactured or copyrighted products.

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

14 (5) Those involving personal or professional services.

15 Section 3. Evasion of Advertising Requirements.--No member
16 or members of council shall evade the provisions of Section two
17 hereof by purchasing or contracting for services and personal
18 properties piecemeal for the purpose of obtaining prices under
19 [two thousand dollars] five thousand dollars upon transactions
20 which transaction should, in the exercise of reasonable
21 discretion and prudence, be conducted as one transaction
22 amounting to more than [two thousand dollars] five thousand
23 dollars. This provision is intended to make unlawful the evading
24 of advertising requirements by making a series of purchases or
25 contracts each for less than the advertising requirement of
26 price, or by making several simultaneous purchases or contracts
27 each below said price, when, in either case, the transactions
28 involved should have been made as one transaction for one price.
29 Any members of council who so vote in violation of this
30 provision and who know that the transaction upon which they so

1 vote is or ought to be a part of a larger transaction and that
2 it is being divided in order to evade the requirements as to
3 advertising for bids shall be jointly and severally subject to
4 surcharge for ten per centum of the full amount of the contract
5 or purchase.

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

10 Section 3.1. Contracts between Seven Hundred Fifty Dollars
11 and [Two Thousand Dollars] Five Thousand Dollars; Written
12 Bids.--In all cases of contracts or purchases, other than the
13 kinds mentioned in clauses (1) to (5) inclusive of subsection
14 (d) of section 2 of this act, from seven hundred fifty dollars
15 to [two thousand dollars] five thousand dollars inclusive,
16 whether made by the town council or by an officer or appointee
17 of the town, written bids shall be solicited therefor; and no
18 such contract or purchase shall be made for the town except upon
19 at least three such written bids. The specifications upon which
20 bids are solicited shall be uniform in so far as possible to
21 afford equal opportunity for bidding. Catalogues and circulars
22 of firm prices shall be acceptable as bids upon the contracts or
23 purchases herein regulated. All such bids shall be retained in
24 the proper department or office for a period of at least two
25 months, and shall be reported monthly to the person designated
26 by the town council, who shall make a consolidated monthly
27 report thereof to council. The town council and the person
28 designated by the town council shall have access to the bids in
29 all departments and offices of the town for the enforcement of
30 this provision. Any official or appointee of the town

1 contracting or purchasing in violation of the provision of this
2 section shall be liable upon his bond, if any, or personally, in
3 the full amount of the purchase or contract so made, and the
4 town council may avoid any such purchase or contract.

5 Section 5. Separate Bids for Plumbing, Heating, Ventilating
6 and Electrical Work.--In the preparation for the erection,
7 construction and alteration of any public building of an
8 incorporated town, when the entire cost of such work shall
9 exceed [two thousand dollars] five thousand dollars, the
10 architect, engineer or other person preparing such
11 specifications shall prepare separate specifications for the
12 plumbing, heating, ventilating and electrical work. The person
13 or persons authorized to enter into contracts for the erection,
14 construction or alteration of such public buildings shall
15 receive separate bids upon each of the said branches of work and
16 award the contract for the same to the lowest responsible bidder
17 for each of said branches.

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