

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 638

Session of
1987

INTRODUCED BY GODSHALL, LLOYD, KUKOVICH, OLASZ, WOGAN, MRKONIC,
D. W. SNYDER, YANDRISEVITS, NOYE, BATTISTO, FOX, DISTLER,
CARLSON, PRESSMANN, TRELLO, HERSHEY, VROON, WOZNIAK,
COLAFELLA, BALDWIN, HECKLER, LANGTRY AND PHILLIPS, MARCH 9,
1987

REFERRED TO COMMITTEE ON URBAN AFFAIRS, MARCH 9, 1987

AN ACT

1 Amending the act of June 25, 1919 (P.L.581, No.274), entitled
2 "An act for the better government of cities of the first
3 class of this Commonwealth," restricting certain persons from
4 bidding on contracts.

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

7 Section 1. Article XX of the act of June 25, 1919 (P.L.581,
8 No.274), referred to as the First Class City Government Law, is
9 amended by adding a section to read:

10 ARTICLE XX.

11 City Contracts.

12 * * *

13 Section 7. (a) No person who or entity which, as a
14 contractor or subcontractor, supplied goods or services to a
15 government or government instrumentality and has been convicted
16 of, or has pleaded guilty or nolo contendere to, a Federal or
17 State crime involving fraud upon a government or a government

instrumentality for acts or omissions arising out of the
supplying of goods or services, and no entity in which that
person or entity has a substantial interest, may bid on a
contract for a period of three years after such conviction or
plea. For purposes of this subsection, the following words and
phrases shall have the following meanings:

(1) "Crime" means any criminal act committed after the
effective date of this amendatory act for which the maximum
possible penalty exceeds a fine of three hundred dollars (\$300)
or exceeds imprisonment for ninety days.

(2) "Entity" means any association, corporation, limited
partnership, partnership, or other business or nonprofit
organization.

(3) "Fraud" includes, but is not limited to:

I. A misrepresentation of a material fact that is not made
honestly and in good faith.

II. A promise, representation or prediction as to the future
that is not made honestly and in good faith.

III. An intentional failure to disclose a material fact.

IV. A fictitious or pretended purchase or sale of a
security.

V. The gaining, through the sale of a security, of an
underwriting or promotion fee or profit or a selling or managing
fee or profit that is so gross or exorbitant as to be
unconscionable, including a scheme, device or artifice to obtain
such a profit, fee or commission.

VI. A scheme, device or artifice to defraud a prospective or
actual customer, client or subscriber of securities, money or
property.

(4) "State" means the District of Columbia or any

possession, state, territory or trusteeship of the United States.

(5) "Substantial interest" means serving as a director, limited partner, officer, partner, or proprietor, or owning more than ten per centum of the number of shares of voting stock or more than twenty per centum of the total number of shares of stock.

(b) The county may require the following information to be submitted with the bid: a sworn statement by the bidder and, if the affiant is an entity, by every person or entity having a substantial interest therein, listing all Federal and state convictions of, and pleas of guilty or nolo contendere to, any crime within three years prior to the date of the statement, said statement to be dated no more than one week prior to the date set for the opening of bids.

(c) In the case of a bid involving the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste under the act of July 7, 1980 (P.L.380, No.97), known as the "Solid Waste Management Act," the following shall apply:

I. A bid may be rejected by the city council if the city council has reason to believe that the bidder's responsibility, character and general fitness for business do not command the confidence of the public and may not be conducive to the honest and efficient conduct of business in the best interest of the public, or if the bidder's prior performance record in the collection, transportation, treatment, storage or disposal of solid waste exhibited insufficient reliability, expertise or competency to warrant the belief that the bidder would be likely to exhibit sufficient reliability, expertise or competence with

1 respect to the contract being bid.

2 II. The city may require the following information to be
3 submitted with the bid: if the bidder has an equity interest in
4 a company which collects, transports, treats, stores or disposes
5 of solid waste or hazardous waste, the name and address of that
6 company; a description of the bidder's experience and
7 credentials in collection, transportation, treatment, storage or
8 disposal of solid waste or hazardous waste, including past or
9 present licenses; if the bidder is an entity, the names of the
10 officers and directors or partners; a list and explanation of
11 Federal, State and local notices of violation, prosecutions,
12 administrative orders and license revocations, for the ten years
13 immediately preceding the bid submission, if the action is
14 pending or has resulted in a finding or a settlement of a
15 violation of law by the bidder or its employes, and, in the case
16 of an entity, by an officer or director or a partner, relating
17 to the collection, transportation, treatment, storage or
18 disposal of solid waste or hazardous waste; a list and
19 explanation of judgments of civil liability and convictions
20 against the bidder or its employes and, in the case of an
21 entity, against an officer or director or a partner; a list of
22 agencies outside of this Commonwealth which had regulatory
23 authority over the bidder in connection with the collection,
24 transportation, treatment, storage or disposal of solid waste or
25 hazardous waste; other information that the city council deems
26 relevant to the competency, reliability or good character of the
27 bidder.

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