

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 447 Session of
1989

INTRODUCED BY GODSHALL, S. H. SMITH, COY, MRKONIC, TIGUE,
DISTLER, ROBBINS, GLADECK, MERRY, CIVERA, DEMPSEY, PHILLIPS,
NOYE, CARLSON, HERMAN, STABACK, ALLEN, McVERRY, HESS, FARGO,
GEIST, DeLUCA, NAHILL, JOHNSON, GIGLIOTTI, HALUSKA, REBER,
YANDRISEVITS, TRELLO, VROON, BUNT, McHALE, OLASZ, TRICH,
RAYMOND, CORNELL, WAMBACH, FLICK, VEON, G. SNYDER, HECKLER
AND MARSICO, FEBRUARY 14, 1989

REFERRED TO COMMITTEE ON URBAN AFFAIRS, FEBRUARY 14, 1989

AN ACT

1 Amending the act of March 7, 1901 (P.L.20, No.14), entitled "An
2 act for the government of cities of the second class,"
3 restricting certain persons from bidding on contracts.

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

6 Section 1. Section 1.1 of Article XV of the act of March 7,
7 1901 (P.L.20, No.14), referred to as the Second Class City Law,
8 amended July 13, 1988 (P.L.523, No.92), is amended to read:

9 ARTICLE XV.

10 Contracts.

11 Section 1.1. Every contract relating to city affairs shall
12 be authorized by general or specific ordinance of council and
13 shall be let in the manner prescribed by council. All contracts
14 shall be awarded to the lowest responsible bidder except in the
15 following cases:

16 I. Purchases at public sale or pursuant to tariffs on file

1 with the Pennsylvania Public Utility Commission;

2 II. Contracts for personal or professional services;

3 III. Contracts with political subdivisions, the Commonwealth
4 of Pennsylvania or the United States Government or with any
5 agencies or authorities of such governmental bodies; or

6 IV. Purchases of personal property where, by reason of
7 patents or copyrights, the required type of item is available
8 from only one seller.

9 For competitive bidding on contracts involving an amount
10 exceeding ten thousand dollars (\$10,000), invitations for bids
11 shall be issued pursuant to reasonable notice, which shall be by
12 advertisement and all bids shall be filed with the city
13 controller and opened publicly at a time and place to be
14 designated in the notice, and the figures shall be announced to
15 persons present. For competitive bidding on contracts involving
16 an amount of ten thousand dollars (\$10,000), or less, the
17 Director of the Department of Supplies may obtain oral bids or
18 letter bids or may proceed by a comparison of specific prices as
19 set forth in the sellers' literature.

20 Every contract for the construction, reconstruction,
21 alteration, repair, improvement or maintenance of public works
22 shall comply with the provisions of the act of March 3, 1978
23 (P.L.6, No.3), known as the "Steel Products Procurement Act."

24 No person, consultant, firm or corporation contracting with a
25 city for purposes of rendering personal or professional services
26 to the city shall share with any city officer or employe, and no
27 city officer or employe shall accept, any portion of the
28 compensation or fees paid by the city for the contracted
29 services provided to the city except under the following terms
30 or conditions:

(1) Full disclosure of all relevant information regarding the sharing of the compensation or fees shall be made to the council of the city.

(2) The council of the city must approve the sharing of any fee or compensation for personal or professional services prior to the performance of said services.

(3) No fee or compensation for personal or professional services may be shared except for work actually performed.

(4) No shared fee or compensation for personal or professional services may be paid at a rate in excess of that commensurate for similar personal or professional services.

No person who or entity which, as a contractor or subcontractor, supplied goods or services to a government or government instrumentality and has been convicted of, or has pleaded guilty or nolo contendere to, a Federal or 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:

1 (i) A misrepresentation of a material fact that is not made
2 honestly and in good faith.

3 (ii) A promise, representation or prediction as to the
4 future that is not made honestly and in good faith.

5 (iii) An intentional failure to disclose a material fact.

6 (iv) A fictitious or pretended purchase or sale of a
7 security.

8 (v) The gaining, through the sale of a security, of an
9 underwriting or promotion fee or profit or a selling or managing
10 fee or profit that is so gross or exorbitant as to be
11 unconscionable. This includes a scheme, device or artifice to
12 obtain such a profit, fee or commission.

13 (vi) A scheme, device or artifice to defraud a prospective
14 or actual customer, client or subscriber of securities, money or
15 property.

16 (4) "State" means the District of Columbia, any possession,
17 state, territory or trusteeship of the United States.

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

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

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