



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1449

PRINTER'S NO. 1633

PRIME SPONSOR: Siegel

COST / (SAVINGS)

FUND	FY 2023/24	FY 2024/25
General Fund	See Fiscal Impact	See Fiscal Impact

SUMMARY:

House Bill 1449 Printer's Number 1633 amends Title 62 of the Pennsylvania Consolidated Statutes to add a subchapter that provides Additional Qualifications for contractors and subcontractors applying to complete public works projects.

ANALYSIS:

This legislation establishes additional qualifications for contractors and subcontractors that receive an award or are working on a public work project. Contractors and subcontractors would be required to:

- Maintain all registrations and credentials required by federal or state laws and regulations.
- Comply with bonding and general liability insurance requirements under the Workers' Compensation Act and the Unemployment Compensation Law.
- Demonstrate that they have defaulted on a project or been debarred by a federal, state, or local government agency within the prior three years.
- Demonstrate that they have not been convicted of a crime related to their business within the prior ten years.
- Ensure that all construction workers and onsite supervisors have completed a 10-hour construction training from the Occupational Safety and Health Administration (OSHA).
- Participate in apprenticeship programs for each specific trade or classification employed on the projects.
- Provide a list of all crafts or classifications for workers it will employ on the project and the names and addresses of applicable apprenticeship programs.
- Have all necessary resources to complete the project.
- Notify the purchasing agency within seven days of any materials changes in its operations that impact compliance with this legislation.
- Disclose any fictitious name changes or controlling interest by another business entity for the previous five years.

The Department of General Services (DGS) is required to develop a form that will be used by the contractor or subcontractor to certify their compliance with all the additional requirements imposed by the legislation. The contractor must submit a completed form with their offer or bid and include a list of subcontractors which includes the scope of work assigned to each subcontractor listed.

The legislation adds responsibilities for the purchasing agency that requires the agency to review the contractor's submitted form, collect any additional information necessary to verify compliance with the additional qualifications, and award a contract to contractors that meet these requirements.

If the purchasing agency determines that the contractor or subcontractor has knowingly falsified information on the submitted form or failed to meet any of the additional requirements, the agency may terminate the contract with that contractor and all funds due to the contract will be forfeited due to a violation of the terms of the contract.

In addition to the purchasing agency, the Office of State Inspector General (OIG) will provide supplemental enforcement of the requirements in this legislation. The OIG will investigate credible complaints that contractors have violated the additional qualification requirements, and they will also conduct random audits of the contracts subject to these requirements. If the OIG finds that a contract has knowingly falsified a compliance form or failed to meet the additional qualification requirements, they will impose fines and penalties ranging from \$1,000 for the first offense up to \$25,000 for each subsequent offense depending on the severity of the violation. Contractors may appeal the OIG's findings and assessment of fines and penalties.

Additionally, this legislation adds the submission of a form or other information with false information will be guilty of a misdemeanor and will have a maximum fine of \$1,000.

FISCAL IMPACT:

According to DGS, developing a new form costs approximately \$3,000.

There is no fiscal impact to commonwealth agencies that are required to receive and evaluate the form, as the required review of this form will likely become part of the commonwealth's current procurement process for public works projects.

There will likely be increased costs to the OIG as result of additional investigations, assessment of fines and penalties, and hearing and appeals resulting from both the random audits and the credible complaints investigations. As the number of random audits and complaint investigations resulting from this legislation is currently unknown so the increased costs cannot be determined at this time.

The collection of fines and penalties will result in additional revenue received by the commonwealth. As the number of contractors that will be required to pay a fine or penalty is directly related to the OIG's audits and investigations which have findings by which the OIG determines that the assessment of a fine or penalty is necessary. Therefore, the amount of additional revenue received depends on the total number of fines or penalties assessed and subsequently paid which cannot be determined at this time.

The overall fiscal impact to the commonwealth for this legislation would be the difference between the increased costs for DGS and the OIG, and any additional revenue received from the payment of fines and penalties.

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House Appropriations Committee (D)

DATE: October 18, 2023

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.