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40TH SENATORIAL DISTRICT

DEC 03 2010

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Senate of Pennsylvania

COSPONSORSHIP MEMO #2

TO: ALL SENATORS

FROM: Senator Jane C. Orie 

DATE: December 2, 2010

RE: "Pay to Play"

When we return to session in January, I will be re-introducing Senate Bill 102 which addresses the practice of "pay to play" in the state procurement process. This legislation is designed to strengthen accountability and transparency, prevent conflicts of interest in contracting, reform no-bid contracts for professional services, require the disclosure of political contributions and reduce the cost of state government in these troubling economic times.

Previous cosponsors of Senate Bill 102 include Senators: Pileggi, Rafferty, Folmer, Robbins, Vance, Earll, Waugh, Ferlo, Baker, Alloway, Eichelberger, Erickson, Tomlinson, Ward, Browne, Smucker, Yaw, Brubaker, Vogel, Farnese, Piccola, and Wozniak.

The proposal includes the following amendments to the procurement code:

- Prohibiting the Attorney General from delegating its responsibility for form and legality review pursuant to the Commonwealth Attorneys Act.
- Requiring the Attorney General to review each contract for legality under the State Adverse Interest Act.
- Eliminating sole source contracting for investment advisors or managers and financial or investment experts.
- Requiring all determinations to authorize sole source procurement to be available for public inspection.
- Requiring the disclosure and posting of all political campaign contributions for the previous 5 years by bidders on contracts totaling \$25,000 or more and provides for penalties for failure to report. This would include affiliates of the bidder, individuals who have greater than 5% financial interest in the entity, executive level employees, and spouse and minor children.

- Creating “most qualified bidder” open bid procurement process for professional services over \$25,000, including non-litigation legal services, management consulting services, financial or investment managers, and other consulting services. These requirements apply to all state agencies including the General Assembly and the Judiciary (unless the courts adopt a rule to provide for the review of contracts with the judiciary – which is the same manner the Judicial branch was addressed under “Right-To-Know”).
- For professional services a state-agency shall:
 - Adopt procedures to determine the most qualified bidder for professional services.
 - Advertise the services being sought and specifications, procedures and requirements to be followed, and factors that will be used in scoring.
 - Select a “Qualified Evaluation Committee” made up of state-agency employees to score the proposals submitted. Requires DGS to promulgate regulations to establish ethical standards relating to conflict of interest for those serving on the committee and precluding former state employees from being involved in the contracting process on behalf of entity bidding for the contract.
 - Provide written notice of the award of the contract and a statement that sets forth the basis for the award, which shall be posted on the state-agency website 10 days prior to execution of the contract.
 - Provide public access to all non-proprietary information included in applications and disclosure forms.
 - Require disclosure and justification of an amendment to a contract in excess of 10% or \$10,000 (whichever is greater) over the contract price.
 - Award professional service contracts based upon a scoring system which does improperly steer a contract to a particular bidder.
- A state-agency may negotiate with one or more bidder relating to the terms and price of a professional service contract prior to the final award of the contract.
- Each state-agency shall create a registry of qualified individuals and firms to provide professional services which will not exceed \$25,000.

If you are interested in co-sponsoring this reform measure, please contact Kacie Morrell at 787-6538 or by email at kmorrell@pasen.gov.

JCO/mas