

STEEL PRODUCTS PROCUREMENT ACT
Act of Mar. 3, 1978, P.L. 6, No. 3
AN ACT

Cl. 62

To promote the general welfare and stimulate the economy of the Commonwealth by requiring that all public bodies, including the Commonwealth, its political subdivisions, and all authorities, include in all contracts for construction, reconstruction, alteration, repair, improvement or maintenance of improvements of a permanent or temporary nature, a provision that if any steel products are to be used in the performance of the contract only steel products produced in the United States shall be used, and imposing liability for violation of this act.

Compiler's Note: Section 4 of Act 116 of 2001 provided that Act 116 shall not affect the scope, effect or applicability of Act 3.

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

Section 1. This act shall be known and may be cited as the "Steel Products Procurement Act."

Section 2. This act shall be deemed to be an exercise of the police powers of the Commonwealth for the protection of the health, safety and general welfare of the people of the Commonwealth.

Section 3. It is hereby determined by the General Assembly of Pennsylvania and declared as a matter of legislative findings that:

(1) The Commonwealth of Pennsylvania is one of the leading states in the United States in the production of steel.

(2) The production of steel products constitutes a major industry of the Commonwealth and, as such, provides the jobs and family incomes of hundreds of thousands of the people of this Commonwealth and, in turn, millions of persons in the United States.

(3) The taxes paid to the Commonwealth and its political subdivisions by employers and employees engaged in the production and sale of steel products are one of the largest single sources of public revenues in this Commonwealth.

(4) It has, for many years, been the policy of the Commonwealth to aid and support the development and expansion of industry in this Commonwealth in order to foster the economic well-being of the Commonwealth and its people.

(5) The economy and general welfare of the Commonwealth and its people, as well as the economy, general welfare and national security of the United States, are inseparably related to the preservation and development of the steel industry in the Commonwealth and in the other states of the United States.

The Pennsylvania General Assembly therefore declares it to be the policy of the Commonwealth of Pennsylvania that all public officers and agencies should, at all times, aid and promote the development of the steel industry of the United States in order to stimulate and improve the economic well-being of the Commonwealth and its people.

Section 4. (a) Every public agency shall require that every contract document for the construction, reconstruction, alteration, repair, improvement or maintenance of public works

contain a provision that, if any steel products are to be used or supplied in the performance of the contract, only steel products as herein defined shall be used or supplied in the performance of the contract or any subcontracts thereunder.

(b) This section shall not apply in any case:

(1) where the head of the public agency, in writing, determines that steel products as herein defined are not produced in the United States in sufficient quantities to meet the requirements of the contract; or

(2) to items on a list of exempt machinery and equipment steel products, which have been identified by the Department of General Services as not produced in the United States in sufficient quantities in the previous calendar year, and published on the department's publicly accessible Internet website, which contractors, subcontractors, suppliers, bidders, offerors and public agencies can rely upon in preparing bids and contracts. The list of exempt machinery and equipment steel products shall be updated annually on a date selected by the Department of General Services. The Department of General Services may not make changes to the list during the year following publication. Prior to publication on the Internet website, and in each subsequent year, the Department of General Services shall publish the list of exempt machinery and equipment steel products in the Pennsylvania Bulletin and provide for a 30-day public comment period. The Department of General Services shall, through a statement of policy, establish a process for creating the list of exempt machinery and equipment steel products and resolving disputes with respect to items on the list raised during the public comment period prior to the publication of the Internet website. The provisions of 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) shall not apply to this section.

(4 amended Oct. 24, 2012, P.L.1284, No.159)

Section 5. (a) No public agency shall authorize, provide for or make any payments to any person under any contract containing the provision required by section 4 unless, when unidentified steel products are supplied under a contract, such person has provided documentation including, but not limited to, invoices, bills of lading, and mill certification that the steel was melted and manufactured in the United States, which establish that such person has fully complied with such provision. If a steel product is identifiable from its face, such person must submit certification which satisfies the public agency that such person has fully complied with the provision required by section 4. Any such payments made to any person by any public agency which should not have been made as a result of this section shall be recoverable directly from the contractor, subcontractor, manufacturer or supplier who did not comply with section 4 by either such public agency or the Attorney General of Pennsylvania.

(b) In addition to the withholding of payments, any person who willfully violates any of the provisions of this act shall be prohibited from submitting any bids to any public agency for any contract for a period of five years from the date of the determination that a violation has occurred. In the event the person who violates the provisions of section 4(a) is a subcontractor, manufacturer or supplier, such person shall be prohibited from performing any work or supplying any materials to a public agency for a period of five years from the date of the determination that a violation has occurred.

(c) Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure) applies to

decisions by public agencies that a person has violated section 4(a).

(5 amended July 9, 1984, P.L.674, No.144)

Section 6. The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Person." Natural persons as well as corporations, partnerships, business units and associations.

"Public agency."

(1) the Commonwealth and its departments, boards, commissions and agencies;

(2) counties, cities, boroughs, townships, school districts, and any other governmental unit or district;

(3) the State Public School Building Authority, the State Highway and Bridge Authority, and any other authority now in existence or hereafter created or organized by the Commonwealth;

(4) all municipal or school or other authorities now in existence or hereafter created or organized by any county, city, borough, township or school district or combination thereof; and

(5) any and all other public bodies, authorities, officers, agencies or instrumentalities, whether exercising a governmental or proprietary function.

"Public works." Any structure, building, highway, waterway, street, bridge, transit system, airport or other betterment, work or improvement whether of a permanent or temporary nature and whether for governmental or proprietary use. The term includes, but is not limited to, any railway, street railway, subway, elevated and monorail passenger or passenger and rail rolling stock, self-propelled cars, gallery cars, locomotives, passenger buses, wires, poles and equipment for electrification of a transit system, rails, tracks, roadbeds, guideways, elevated structures, buildings, stations, terminals, docks, shelters and repairs to any of the foregoing. (Def. amended July 9, 1984, P.L.674, No.144)

"Steel products." Products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more of such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process and shall include cast iron products and shall include machinery and equipment listed in United States Department of Commerce Standard Industrial Classification 25 (furniture and fixture), 35 (machinery, except electrical) and 37 (transportation equipment) and made of, fabricated from, or containing steel components. If a product contains both foreign and United States steel, such product shall be determined to be a United States steel product only if at least 75% of the cost of the articles, materials and supplies have been mined, produced or manufactured, as the case may be, in the United States. Transportation equipment shall be determined to be a United States steel product if it complies with section 165 of Public Law 97-424 (96 Stat. 2136). (Def. amended July 9, 1984, P.L.674, No.144)

"United States." The United States of America and includes all territory, continental or insular, subject to the jurisdiction of the United States.

Section 7. This act is intended as remedial legislation designed to promote the general welfare and stimulate the economy of the Commonwealth and its people and each and every provision hereof is intended to receive a liberal construction

such as will best effectuate that purpose and no provision is intended to receive a strict or limited construction.

Section 8. All acts or parts of acts are repealed insofar as they are inconsistent herewith.

Section 9. This act shall take effect in 60 days but shall not apply to any contract awarded pursuant to an invitation for bids issued on or before the effective date of this act.