

THIRD CLASS CITY CODE, THE - AMEND SECURITY REQUIREMENTS FOR BIDDERS
Act of Apr. 3, 1992, P.L. 53, No. 17 Cl. 11
Session of 1992
No. 1992-17

HB 757

AN ACT

Amending the act of June 23, 1931 (P.L.932, No.317), entitled "An act relating to cities of the third class; and amending, revising, and consolidating the law relating thereto," granting city council the authority to determine whether or not security should accompany bids submitted in response to advertisement; and further providing for regulations concerning contracts and for bonds for protection of labor and materialmen.

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

Section 1. Section 1901(f) and (g) of the act of June 23, 1931 (P.L.932, No.317), known as The Third Class City Code, reenacted and amended June 28, 1951 (P.L.662, No.164) and amended September 17, 1959 (P.L.906, No.359), are amended to read:

Section 1901. Power to Make Contracts; Regulations Concerning Contracts.--* * *

(f) [All bids advertised for shall be accompanied by cash, by a certified or cashier's good faith check in an amount required by council but at least ten per centum of the bid, or by a bond with corporate surety in such amount as council shall determine but not less than ten per centum of the amount bid.] **Council may require that any bids so advertised be accompanied by cash, by a certified or cashier's good faith check or other irrevocable letter of credit in a reasonable amount, or by a bond with corporate surety in a reasonable amount. Whenever it is required that a bid be accompanied by cash, certified check, cashier's good faith check or other irrevocable letter of credit, no bid shall be considered unless so accompanied.** In the event any bidder shall, upon award of the contract to him, fail to comply with the requirements hereinafter stated as to a bond guaranteeing the performance of the contract the good faith deposit by cash, certified check, or bond, shall be forfeited to the city as liquidated damages.

(g) Where advertising is required herein, the successful bidder shall be required to furnish a bond **or irrevocable letter of credit in an amount sufficient to council** with suitable reasonable requirements guaranteeing the performance of the contract[, with surety sufficient to council,] within twenty days after the contract has been awarded, unless council prescribes a shorter period of not less than ten days, and failure to furnish such [bond] **security** within such time shall [avoid] **void** the award. The provisions of this subsection requiring successful bidders to furnish [bond] **security** shall not be mandatory as to contracts for the purchase of motor vehicles or other pieces of equipment but only as to those contracts which involve furnishing of labor and materials. Council may in all cases of contracts or purchases require [bonds] **security** for performance, delivery, or other terms.

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Section 2. Section 1907 of the act, amended October 9, 1967 (P.L.378, No.170), is amended to read:

Section 1907. [Bonds] **Security** for the Protection of Labor and Materialmen.--It shall be the duty of every city to require any person, copartnership, association, or corporation, entering into a contract with such city for the construction, erection, installation, completion, alteration, repair of, or addition to, any public work or improvement of any kind whatsoever, where the amount of such contract is in excess of one thousand five hundred dollars, before commencing work under such contract, to execute and deliver to such city, in addition to any other [bond] **security** which may now or hereafter be required by law to be given in connection with such contract, an additional bond **or irrevocable letter of credit** for the use of any and every person, copartnership, association, or corporation interested, in a sum not less than fifty per centum and not more than one hundred per centum of the contract price, as such city may prescribe, [having as surety thereon one or more surety companies legally authorized to do business in this Commonwealth,] conditioned for the prompt payment of all material furnished and labor supplied or performed in the prosecution of the work, whether or not the said material or labor enter into and become component parts of the work or improvement contemplated. Such additional [bond] **security** shall be deposited with and held by the city for the use of any party interested therein. Every such additional [bond] **security** shall provide that every person, copartnership, association, or corporation who, whether as subcontractor or otherwise, has furnished material or supplied or performed labor in the prosecution of the work as above provided, and who has not been paid therefor, may sue in assumpsit on said additional [bond] **security**, in the name of the city, for his, their, or its use and prosecute the same to final judgment for such sum or sums as may be justly due him, them, or it, and have execution thereof: Provided, however, That the city shall not be liable for the payment of any costs or expense of any suit. **The surety or sureties on a bond under this section must be authorized to do business in this Commonwealth.**

Section 3. This act shall take effect in 60 days.

APPROVED--The 3th day of April, A. D. 1992.

ROBERT P. CASEY