
 THE GENERAL ASSEMBLY OF PENNSYLVANIA

 HOUSE BILL

 No. 281 Session of
2011

INTRODUCED BY M. K. KELLER, GINGRICH, AUMENT, BAKER, BEAR, BENNINGHOFF, BLOOM, BOBACK, BOYD, BROOKS, CAUSER, CHRISTIANA, CLYMER, COX, CREIGHTON, CUTLER, DELOZIER, DENLINGER, ELLIS, EVERETT, FARRY, FLECK, GABLER, GEIST, GILLESPIE, GRELL, GROVE, HALUSKA, HARHART, HARPER, HARRIS, HELM, HENNESSEY, HESS, HICKERNELL, KAUFFMAN, KILLION, KNOWLES, MAJOR, MARSHALL, MARSICO, MASSER, METCALFE, MILLARD, MILLER, MOUL, OBERLANDER, O'NEILL, PAYNE, PEIFER, PERRY, PICKETT, PYLE, QUIGLEY, QUINN, RAPP, REED, REICHLEY, ROAE, ROCK, ROSS, SAYLOR, SCAVELLO, CULVER, SCHRODER, SIMMONS, SONNEY, STERN, STEVENSON, SWANGER, TALLMAN, TOBASH, TRUITT, TURZAI, VEREB, VULAKOVICH, WATSON AND F. KELLER, JANUARY 27, 2011

SENATOR EICHELBERGER, LOCAL GOVERNMENT, IN SENATE, AS AMENDED, SEPTEMBER 27, 2011

AN ACT

1 Amending the act of February 1, 1966 (1965 P.L.1656, No.581),
2 entitled "An act concerning boroughs, and revising, amending
3 and consolidating the law relating to boroughs," in
4 contracts, further providing for regulation of contracts, for
5 evasion of advertising requirements and for certain purchase
6 contracts.

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

9 ~~Section 1. Section 1402(a), (a.1) and (d) of the act of~~ ←
10 ~~February 1, 1966 (1965 P.L.1656, No.581), known as The Borough-~~
11 ~~Code, amended or added July 10, 1990 (P.L.383, No.90), December~~
12 ~~18, 1996 (P.L.1141, No.171), December 18, 1996 (P.L.1156,~~
13 ~~No.176), December 20, 1996 (P.L.1497, No.193) and October 27,~~
14 ~~2010 (P.L.862, No.87), are amended and the section is amended by~~

1 ~~adding a subsection to read:~~

2 ~~Section 1402. Regulation of Contracts. (a) All contracts~~
3 ~~or purchases in excess of [ten thousand dollars (\$10,000)] the~~
4 ~~base amount of twenty five thousand dollars (\$25,000) subject to~~
5 ~~annual adjustment under subsection (a.2), except those~~
6 ~~hereinafter mentioned, shall not be made except with and from~~
7 ~~the lowest responsible bidder after due notice in one newspaper~~
8 ~~of general circulation in the borough, at least two times at~~
9 ~~intervals of not less than three days where daily newspapers of~~
10 ~~general circulation are available for such publication, in case~~
11 ~~of weekly newspapers, such notice once a week for two successive~~
12 ~~weeks. The first advertisement shall be published not more than~~
13 ~~forty five days and the second advertisement not less than ten~~
14 ~~days prior to the date fixed for the opening of bids.~~

15 ~~Advertisements for contracts or purchases shall also be posted~~
16 ~~in a conspicuous place within the borough. Advertisements for~~
17 ~~contracts and purchases shall contain the date, time and~~
18 ~~location for opening of bids and shall state the amount of the~~
19 ~~performance bond determined under subsection (c). The amount of~~
20 ~~the contract shall in all cases, whether of straight sale price,~~
21 ~~conditional sale, bailment lease, or otherwise, be the entire~~
22 ~~amount which the borough pays to the successful bidder or his~~
23 ~~assigns in order to obtain the services or property, or both,~~
24 ~~and shall not be construed to mean only the amount which is paid~~
25 ~~to acquire title or to receive any other particular benefit or~~
26 ~~benefits of the whole bargain. In awarding contracts, council~~
27 ~~shall have the right to take into consideration such other~~
28 ~~factors as the availability, cost and quality of service.~~

29 ~~(a.1) Written or telephonic price quotations from at least~~
30 ~~three qualified and responsible contractors shall be requested~~

1 ~~for all contracts that [exceed four thousand dollars (\$4,000)]~~
2 ~~are in excess of the base amount of ten thousand dollars~~
3 ~~(\$10,000) subject to annual adjustment under subsection (a.2)~~
4 ~~but are less than the amount requiring advertisement and~~
5 ~~competitive bidding or, in lieu of price quotations, a~~
6 ~~memorandum shall be kept on file showing that fewer than three~~
7 ~~qualified contractors exist in the market area within which it~~
8 ~~is practicable to obtain quotations. A written record of~~
9 ~~telephonic price quotations shall be made and shall contain at~~
10 ~~least the date of the quotation, the name of the contractor and~~
11 ~~the contractor's representative, the construction,~~
12 ~~reconstruction, repair, maintenance or work which was the~~
13 ~~subject of the quotation and the price. Written price~~
14 ~~quotations, written records of telephonic price quotations and~~
15 ~~memoranda shall be retained for a period of three years.~~

16 ~~(a.2) Adjustments to the base amounts specified under~~
17 ~~subsections (a) and (a.1) shall be made as follows:~~

18 ~~(1) The Department of Labor and Industry shall determine the~~
19 ~~percentage change in the All Items Consumer Price Index for All~~
20 ~~Urban Consumers (CPI-U) for the United States City Average as~~
21 ~~published by the United States Department of Labor, Bureau of~~
22 ~~Labor Statistics for the twelve month period ending September 30~~
23 ~~of the calendar year in which this subsection becomes effective,~~
24 ~~and for each successive twelve month period thereafter.~~

25 ~~(2) If the department determines that there is no positive~~
26 ~~percentage change, then no adjustment to the base amounts shall~~
27 ~~occur for the relevant time period provided for in this~~
28 ~~subsection.~~

29 ~~(3) (i) If the department determines that there is a~~
30 ~~positive percentage change in the first year that the~~

1 ~~determination is made under paragraph (1), the positive~~
2 ~~percentage change shall be multiplied by each base amount and~~
3 ~~the products shall be added to the base amounts, respectively,~~
4 ~~and the sums shall be preliminary adjusted amounts.~~

5 ~~(ii) The preliminary adjusted amounts shall be rounded to~~
6 ~~the nearest one thousand dollars (\$1,000), to determine the~~
7 ~~final adjusted base amounts for purposes of subsections (a) and~~
8 ~~(a.1).~~

9 ~~(4) In each successive year in which there is a positive~~
10 ~~percentage change in the CPI-U for the United States City~~
11 ~~Average, the positive percentage change shall be multiplied by~~
12 ~~the most recent preliminary adjusted amounts and the products~~
13 ~~shall be added to the most recent preliminary adjusted amounts,~~
14 ~~respectively. The sums thereof shall be rounded to the nearest~~
15 ~~one thousand dollars (\$1,000) to determine the new final~~
16 ~~adjusted base amounts for purposes of subsections (a) and (a.1).~~

17 ~~(5) The determinations and adjustments required under this~~
18 ~~subsection shall be made in the period between October 1 and~~
19 ~~November 15 of the year following the effective date of this~~
20 ~~subsection, and annually between October 1 and November 15 of~~
21 ~~each year thereafter.~~

22 ~~(6) The final adjusted base amounts and new final adjusted~~
23 ~~base amounts obtained under paragraphs (3) and (4) shall become~~
24 ~~effective January 1 for the calendar year following the year in~~
25 ~~which the determination required under paragraph (1) is made.~~

26 ~~(7) The department shall publish notice in the Pennsylvania~~
27 ~~Bulletin prior to January 1 of each calendar year of the annual~~
28 ~~percentage change determined under paragraph (1) and the~~
29 ~~unadjusted or final adjusted base amounts determined under~~
30 ~~paragraphs (3) and (4) at which competitive bidding is required~~

~~1 under subsection (a) and written or telephonic price quotations
2 are required under subsection (a.1), respectively, for the
3 calendar year beginning the first day of January after
4 publication of the notice. The notice shall include a written
5 and illustrative explanation of the calculations performed by
6 the department in establishing the unadjusted or final adjusted
7 base amounts under this subsection for the ensuing calendar
8 year.~~

9 * * *

10 ~~(d) The contracts or purchases made by council, which shall
11 not require advertising, bidding or price quotations as
12 hereinbefore provided, are as follows:~~

13 ~~(1) Those for maintenance, repairs or replacements for
14 water, electric light or public works of the borough, provided
15 they do not constitute new additions, extensions or enlargements
16 of existing facilities and equipment, but a bond may be required
17 by council, as in other cases of work done;~~

18 ~~(2) Those made for improvements, repairs and maintenance of
19 any kind, made or provided by any borough, through its own
20 employes: Provided, That all materials used for street
21 improvement, maintenance and/or construction in excess of [four
22 thousand dollars (\$4,000)] the amount specified or adjusted
23 under subsection (a.1) be subject to the relevant price
24 quotation or advertising requirements contained herein;~~

25 ~~(3) Those where particular types, models or pieces of new
26 equipment, articles, apparatus, appliances, vehicles or parts
27 thereof are desired by council, which are patented and
28 manufactured or copyrighted products;~~

29 ~~(3.1) Those for used equipment, articles, apparatus,
30 appliances, vehicles or parts thereof being purchased from a~~

1 ~~public utility.~~

2 ~~(4) Those involving any policies of insurance or surety~~
3 ~~company bonds; those made for public utility service under~~
4 ~~tariffs on file with the Pennsylvania Public Utility Commission;~~
5 ~~those made with another political subdivision, or a county, the~~
6 ~~Commonwealth of Pennsylvania, the Federal Government, any agency~~
7 ~~of the Commonwealth or the Federal Government, or any municipal~~
8 ~~authority, including the sale, leasing or loan of any supplies~~
9 ~~or materials by the Commonwealth or the Federal Government or~~
10 ~~their agencies. The price thereof shall not be in excess of that~~
11 ~~fixed by the Commonwealth, the Federal Government, or their~~
12 ~~agencies;~~

13 ~~(5) Those involving personal or professional services.~~

14 ~~(6) Those made relating to the purchase of electricity and~~
15 ~~associated energy and related services by a borough owning or~~
16 ~~operating electric generation or distribution facilities on the~~
17 ~~effective date of this section with any of the following:~~

18 ~~(i) A political subdivision.~~

19 ~~(ii) Another state.~~

20 ~~(iii) The Commonwealth or an agency thereof.~~

21 ~~(iv) The Federal Government.~~

22 ~~(v) A private corporation.~~

23 ~~(vi) An electric cooperative corporation under 15 Pa.C.S.~~
24 ~~Ch. 73 (relating to electric cooperative corporations).~~

25 ~~(vii) A non profit membership corporation. As used in this~~
26 ~~subclause, the term "non profit membership corporation" means an~~
27 ~~entity, the membership of which:~~

28 ~~(A) consists solely of Pennsylvania boroughs, such as a~~
29 ~~consortium, buying group or municipal power agency under section~~
30 ~~2471.2; or~~

1 ~~(B) consists of Pennsylvania boroughs and political~~
2 ~~subdivisions of another state or states.~~

3 ~~(viii) An electric cooperative of another state.~~

4 ~~Nothing in this clause shall prohibit council from engaging~~
5 ~~in advertising, bidding or price quotations if the council~~
6 ~~determines that the advertising, bidding or price quotations are~~
7 ~~in the public interest.~~

8 * * *

9 ~~Section 2. Sections 1403(a) and 1405 of the act, amended~~
10 ~~July 10, 1990 (P.L.383, No.90), are amended to read:~~

11 ~~Section 1403. Evasion of Advertising Requirements. (a) No~~
12 ~~member or members of council shall evade the provisions of~~
13 ~~section 1402 hereof as to advertising for bids, by purchasing or~~
14 ~~contracting for services and personal properties piecemeal for~~
15 ~~the purpose of obtaining prices under [ten thousand dollars~~
16 ~~(\$10,000)] the amount specified or adjusted under section~~
17 ~~1402(a) upon transactions, which transactions should, in the~~
18 ~~exercise of reasonable discretion and prudence, be conducted as~~
19 ~~one transaction amounting to more than [ten thousand dollars~~
20 ~~(\$10,000)] the amount specified or adjusted under section~~
21 ~~1402(a). This provision is intended to make unlawful the evading~~
22 ~~of advertising requirements by making a series of purchases or~~
23 ~~contracts, each for less than the advertising requirement price,~~
24 ~~or by making several simultaneous purchases or contracts, each~~
25 ~~below said price, when, in either case, the transactions~~
26 ~~involved should have been made as one transaction for one price.~~
27 ~~Any members of council who so vote in violation of this~~
28 ~~provision and who know that the transaction upon which they so~~
29 ~~vote is or ought to be a part of a larger transaction and that~~
30 ~~it is being divided in order to evade the requirements as to~~

1 ~~advertising for bids, shall be jointly and severally subject to~~
2 ~~surcharge for ten percent of the full amount of the contract or~~
3 ~~purchase. Whenever it shall appear that a member of council may~~
4 ~~have voted in violation of this section but the purchase or~~
5 ~~contract on which he so voted was not approved by council, this~~
6 ~~section shall be inapplicable.~~

7 * * *

8 ~~Section 1405. Separate Bids for Plumbing, Heating,~~
9 ~~Ventilating and Electrical Work. In the preparation for the~~
10 ~~erection, construction and alteration of any public building,~~
11 ~~when the entire cost of such work shall exceed [ten thousand~~
12 ~~dollars (\$10,000)] the amount specified or adjusted under~~
13 ~~section 1402(a), the architect, engineer, or other person~~
14 ~~preparing such specifications may, if so requested by the~~
15 ~~borough council, prepare separate specifications for the~~
16 ~~plumbing, heating, ventilating and electrical work. The person~~
17 ~~or persons authorized to enter into contracts for the erection,~~
18 ~~construction or alteration of such public buildings may, if such~~
19 ~~separate specifications shall have been proposed, receive~~
20 ~~separate bids upon each of the said branches of work and shall~~
21 ~~thereupon award the contract for the same to the lowest~~
22 ~~responsible bidder for each of said branches.~~

23 ~~Section 3. This act shall apply to contracts and purchases~~
24 ~~advertised after December 31 of the year in which this section~~
25 ~~takes effect.~~

26 ~~Section 4. This act shall take effect immediately.~~

27 SECTION 1. SECTION 1402(A), (A.1) AND (D) OF THE ACT OF
28 FEBRUARY 1, 1966 (1965 P.L.1656, NO.581), KNOWN AS THE BOROUGH
29 CODE, AMENDED OR ADDED JULY 10, 1990 (P.L.383, NO.90), DECEMBER
30 18, 1996 (P.L.1141, NO.171), DECEMBER 18, 1996 (P.L.1156, NO.



1 176), DECEMBER 20, 1996 (P.L.1497, NO.193) AND OCTOBER 27, 2010
2 (P.L.862, NO.87), ARE AMENDED AND THE SECTION IS AMENDED BY
3 ADDING A SUBSECTION TO READ:

4 SECTION 1402. REGULATION OF CONTRACTS.--(A) ALL CONTRACTS
5 OR PURCHASES IN EXCESS OF [TEN THOUSAND DOLLARS (\$10,000)] THE
6 BASE AMOUNT OF EIGHTEEN THOUSAND FIVE HUNDRED DOLLARS (\$18,500)
7 SUBJECT TO ADJUSTMENT UNDER SUBSECTION (A.2), EXCEPT THOSE
8 HEREINAFTER MENTIONED, SHALL NOT BE MADE EXCEPT WITH AND FROM
9 THE LOWEST RESPONSIBLE BIDDER AFTER DUE NOTICE IN ONE NEWSPAPER
10 OF GENERAL CIRCULATION IN THE BOROUGH, AT LEAST TWO TIMES AT
11 INTERVALS OF NOT LESS THAN THREE DAYS WHERE DAILY NEWSPAPERS OF
12 GENERAL CIRCULATION ARE AVAILABLE FOR SUCH PUBLICATION, IN CASE
13 OF WEEKLY NEWSPAPERS, SUCH NOTICE ONCE A WEEK FOR TWO SUCCESSIVE
14 WEEKS. THE FIRST ADVERTISEMENT SHALL BE PUBLISHED NOT MORE THAN
15 FORTY-FIVE DAYS AND THE SECOND ADVERTISEMENT NOT LESS THAN TEN
16 DAYS PRIOR TO THE DATE FIXED FOR THE OPENING OF BIDS.
17 ADVERTISEMENTS FOR CONTRACTS OR PURCHASES SHALL ALSO BE POSTED
18 IN A CONSPICUOUS PLACE WITHIN THE BOROUGH. ADVERTISEMENTS FOR
19 CONTRACTS AND PURCHASES SHALL CONTAIN THE DATE, TIME AND
20 LOCATION FOR OPENING OF BIDS AND SHALL STATE THE AMOUNT OF THE
21 PERFORMANCE BOND DETERMINED UNDER SUBSECTION (C). THE AMOUNT OF
22 THE CONTRACT SHALL IN ALL CASES, WHETHER OF STRAIGHT SALE PRICE,
23 CONDITIONAL SALE, BAILMENT LEASE, OR OTHERWISE, BE THE ENTIRE
24 AMOUNT WHICH THE BOROUGH PAYS TO THE SUCCESSFUL BIDDER OR HIS
25 ASSIGNS IN ORDER TO OBTAIN THE SERVICES OR PROPERTY, OR BOTH,
26 AND SHALL NOT BE CONSTRUED TO MEAN ONLY THE AMOUNT WHICH IS PAID
27 TO ACQUIRE TITLE OR TO RECEIVE ANY OTHER PARTICULAR BENEFIT OR
28 BENEFITS OF THE WHOLE BARGAIN. IN AWARDING CONTRACTS, COUNCIL
29 SHALL HAVE THE RIGHT TO TAKE INTO CONSIDERATION SUCH OTHER
30 FACTORS AS THE AVAILABILITY, COST AND QUALITY OF SERVICE.

1 (A.1) WRITTEN OR TELEPHONIC PRICE QUOTATIONS FROM AT LEAST
2 THREE QUALIFIED AND RESPONSIBLE CONTRACTORS SHALL BE REQUESTED
3 FOR ALL CONTRACTS [THAT EXCEED FOUR THOUSAND DOLLARS (\$4,000)]
4 IN EXCESS OF THE BASE AMOUNT OF TEN THOUSAND DOLLARS (\$10,000)
5 SUBJECT TO ADJUSTMENT UNDER SUBSECTION (A.2) BUT ARE LESS THAN
6 THE AMOUNT REQUIRING ADVERTISEMENT AND COMPETITIVE BIDDING OR,
7 IN LIEU OF PRICE QUOTATIONS, A MEMORANDUM SHALL BE KEPT ON FILE
8 SHOWING THAT FEWER THAN THREE QUALIFIED CONTRACTORS EXIST IN THE
9 MARKET AREA WITHIN WHICH IT IS PRACTICABLE TO OBTAIN QUOTATIONS.
10 A WRITTEN RECORD OF TELEPHONIC PRICE QUOTATIONS SHALL BE MADE
11 AND SHALL CONTAIN AT LEAST THE DATE OF THE QUOTATION, THE NAME
12 OF THE CONTRACTOR AND THE CONTRACTOR'S REPRESENTATIVE, THE
13 CONSTRUCTION, RECONSTRUCTION, REPAIR, MAINTENANCE OR WORK WHICH
14 WAS THE SUBJECT OF THE QUOTATION AND THE PRICE. WRITTEN PRICE
15 QUOTATIONS, WRITTEN RECORDS OF TELEPHONIC PRICE QUOTATIONS AND
16 MEMORANDA SHALL BE RETAINED FOR A PERIOD OF THREE YEARS.

17 (A.2) ADJUSTMENTS TO THE BASE AMOUNTS SPECIFIED UNDER
18 SUBSECTIONS (A) AND (A.1) SHALL BE MADE AS FOLLOWS:

19 (1) THE DEPARTMENT OF LABOR AND INDUSTRY SHALL DETERMINE THE
20 PERCENTAGE CHANGE IN THE ALL ITEMS CONSUMER PRICE INDEX FOR ALL
21 URBAN CONSUMERS (CPI-U) FOR THE UNITED STATES CITY AVERAGE AS
22 PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF
23 LABOR STATISTICS FOR THE TWELVE-MONTH PERIOD ENDING SEPTEMBER
24 30, 2012, AND FOR EACH SUCCESSIVE TWELVE-MONTH PERIOD
25 THEREAFTER.

26 (2) IF THE DEPARTMENT DETERMINES THAT THERE IS NO POSITIVE
27 PERCENTAGE CHANGE, THEN NO ADJUSTMENT TO THE BASE AMOUNTS SHALL
28 OCCUR FOR THE RELEVANT TIME PERIOD PROVIDED FOR IN THIS
29 SUBSECTION.

30 (3) (I) IF THE DEPARTMENT DETERMINES THAT THERE IS A

1 POSITIVE PERCENTAGE CHANGE IN THE FIRST YEAR THAT THE
2 DETERMINATION IS MADE UNDER PARAGRAPH (1), THE POSITIVE
3 PERCENTAGE CHANGE SHALL BE MULTIPLIED BY EACH BASE AMOUNT AND
4 THE PRODUCTS SHALL BE ADDED TO THE BASE AMOUNTS, RESPECTIVELY,
5 AND THE SUMS SHALL BE PRELIMINARY ADJUSTED AMOUNTS.

6 (II) THE PRELIMINARY ADJUSTED AMOUNTS SHALL BE ROUNDED TO
7 THE NEAREST ONE HUNDRED DOLLARS (\$100), TO DETERMINE THE FINAL
8 ADJUSTED BASE AMOUNTS FOR PURPOSES OF SUBSECTIONS (A) AND (A.1).

9 (4) IN EACH SUCCESSIVE YEAR IN WHICH THERE IS A POSITIVE
10 PERCENTAGE CHANGE IN THE CPI-U FOR THE UNITED STATES CITY
11 AVERAGE, THE POSITIVE PERCENTAGE CHANGE SHALL BE MULTIPLIED BY
12 THE MOST RECENT PRELIMINARY ADJUSTED AMOUNTS AND THE PRODUCTS
13 SHALL BE ADDED TO THE PRELIMINARY ADJUSTED AMOUNT OF THE PRIOR
14 YEAR TO CALCULATE THE PRELIMINARY ADJUSTED AMOUNTS FOR THE
15 CURRENT YEAR. THE SUMS THEREOF SHALL BE ROUNDED TO THE NEAREST
16 ONE HUNDRED DOLLARS (\$100) TO DETERMINE THE NEW FINAL ADJUSTED
17 BASE AMOUNTS FOR PURPOSES OF SUBSECTIONS (A) AND (A.1).

18 (5) THE DETERMINATIONS AND ADJUSTMENTS REQUIRED UNDER THIS
19 SUBSECTION SHALL BE MADE IN THE PERIOD BETWEEN OCTOBER 1 AND
20 NOVEMBER 15 OF THE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS
21 SUBSECTION, AND ANNUALLY BETWEEN OCTOBER 1 AND NOVEMBER 15 OF
22 EACH YEAR THEREAFTER.

23 (6) THE FINAL ADJUSTED BASE AMOUNTS AND NEW FINAL ADJUSTED
24 BASE AMOUNTS OBTAINED UNDER PARAGRAPHS (3) AND (4) SHALL BECOME
25 EFFECTIVE JANUARY 1 FOR THE CALENDAR YEAR FOLLOWING THE YEAR IN
26 WHICH THE DETERMINATION REQUIRED UNDER PARAGRAPH (1) IS MADE.

27 (7) THE DEPARTMENT SHALL PUBLISH NOTICE IN THE PENNSYLVANIA
28 BULLETIN PRIOR TO JANUARY 1 OF EACH CALENDAR YEAR OF THE ANNUAL
29 PERCENTAGE CHANGE DETERMINED UNDER PARAGRAPH (1) AND THE
30 UNADJUSTED OR FINAL ADJUSTED BASE AMOUNTS DETERMINED UNDER

1 PARAGRAPHS (3) AND (4) AT WHICH COMPETITIVE BIDDING IS REQUIRED
2 UNDER SUBSECTION (A) AND WRITTEN OR TELEPHONIC PRICE QUOTATIONS
3 ARE REQUIRED UNDER SUBSECTION (A.1), RESPECTIVELY, FOR THE
4 CALENDAR YEAR BEGINNING THE FIRST DAY OF JANUARY AFTER
5 PUBLICATION OF THE NOTICE. THE NOTICE SHALL INCLUDE A WRITTEN
6 AND ILLUSTRATIVE EXPLANATION OF THE CALCULATIONS PERFORMED BY
7 THE DEPARTMENT IN ESTABLISHING THE UNADJUSTED OR FINAL ADJUSTED
8 BASE AMOUNTS UNDER THIS SUBSECTION FOR THE ENSUING CALENDAR
9 YEAR.

10 (8) THE ANNUAL INCREASE IN THE PRELIMINARY ADJUSTED BASE
11 AMOUNTS OBTAINED UNDER PARAGRAPHS (3) AND (4) SHALL NOT EXCEED
12 THREE PERCENT.

13 * * *

14 (D) THE CONTRACTS OR PURCHASES MADE BY COUNCIL, WHICH SHALL
15 NOT REQUIRE ADVERTISING, BIDDING OR PRICE QUOTATIONS AS
16 HEREINBEFORE PROVIDED, ARE AS FOLLOWS:

17 (1) THOSE FOR MAINTENANCE, REPAIRS OR REPLACEMENTS FOR
18 WATER, ELECTRIC LIGHT OR PUBLIC WORKS OF THE BOROUGH, PROVIDED
19 THEY DO NOT CONSTITUTE NEW ADDITIONS, EXTENSIONS OR ENLARGEMENTS
20 OF EXISTING FACILITIES AND EQUIPMENT, BUT A BOND MAY BE REQUIRED
21 BY COUNCIL, AS IN OTHER CASES OF WORK DONE;

22 (2) THOSE MADE FOR IMPROVEMENTS, REPAIRS AND MAINTENANCE OF
23 ANY KIND, MADE OR PROVIDED BY ANY BOROUGH, THROUGH ITS OWN
24 EMPLOYEES: PROVIDED, THAT ALL MATERIALS USED FOR STREET
25 IMPROVEMENT, MAINTENANCE AND/OR CONSTRUCTION IN EXCESS OF [FOUR
26 THOUSAND DOLLARS (\$4,000)] THE AMOUNT SPECIFIED OR ADJUSTED
27 UNDER SUBSECTION (A.1) BE SUBJECT TO THE RELEVANT PRICE
28 QUOTATION OR ADVERTISING REQUIREMENTS CONTAINED HEREIN;

29 (3) THOSE WHERE PARTICULAR TYPES, MODELS OR PIECES OF NEW
30 EQUIPMENT, ARTICLES, APPARATUS, APPLIANCES, VEHICLES OR PARTS

1 THEREOF ARE DESIRED BY COUNCIL, WHICH ARE PATENTED AND
2 MANUFACTURED OR COPYRIGHTED PRODUCTS;

3 (3.1) THOSE FOR USED EQUIPMENT, ARTICLES, APPARATUS,
4 APPLIANCES, VEHICLES OR PARTS THEREOF BEING PURCHASED FROM A
5 PUBLIC UTILITY.

6 (4) THOSE INVOLVING ANY POLICIES OF INSURANCE OR SURETY
7 COMPANY BONDS; THOSE MADE FOR PUBLIC UTILITY SERVICE UNDER
8 TARIFFS ON FILE WITH THE PENNSYLVANIA PUBLIC UTILITY COMMISSION;
9 THOSE MADE WITH ANOTHER POLITICAL SUBDIVISION, OR A COUNTY, THE
10 COMMONWEALTH OF PENNSYLVANIA, THE FEDERAL GOVERNMENT, ANY AGENCY
11 OF THE COMMONWEALTH OR THE FEDERAL GOVERNMENT, OR ANY MUNICIPAL
12 AUTHORITY, INCLUDING THE SALE, LEASING OR LOAN OF ANY SUPPLIES
13 OR MATERIALS BY THE COMMONWEALTH OR THE FEDERAL GOVERNMENT OR
14 THEIR AGENCIES. THE PRICE THEREOF SHALL NOT BE IN EXCESS OF THAT
15 FIXED BY THE COMMONWEALTH, THE FEDERAL GOVERNMENT, OR THEIR
16 AGENCIES;

17 (5) THOSE INVOLVING PERSONAL OR PROFESSIONAL SERVICES.

18 (6) THOSE MADE RELATING TO THE PURCHASE OF ELECTRICITY AND
19 ASSOCIATED ENERGY AND RELATED SERVICES BY A BOROUGH OWNING OR
20 OPERATING ELECTRIC GENERATION OR DISTRIBUTION FACILITIES ON THE
21 EFFECTIVE DATE OF THIS SECTION WITH ANY OF THE FOLLOWING:

22 (I) A POLITICAL SUBDIVISION.

23 (II) ANOTHER STATE.

24 (III) THE COMMONWEALTH OR AN AGENCY THEREOF.

25 (IV) THE FEDERAL GOVERNMENT.

26 (V) A PRIVATE CORPORATION.

27 (VI) AN ELECTRIC COOPERATIVE CORPORATION UNDER 15 PA.C.S.
28 CH. 73 (RELATING TO ELECTRIC COOPERATIVE CORPORATIONS).

29 (VII) A NON-PROFIT MEMBERSHIP CORPORATION. AS USED IN THIS
30 SUBCLAUSE, THE TERM "NON-PROFIT MEMBERSHIP CORPORATION" MEANS AN

1 ENTITY, THE MEMBERSHIP OF WHICH:

2 (A) CONSISTS SOLELY OF PENNSYLVANIA BOROUGH, SUCH AS A
3 CONSORTIUM, BUYING GROUP OR MUNICIPAL POWER AGENCY UNDER SECTION
4 2471.2; OR

5 (B) CONSISTS OF PENNSYLVANIA BOROUGH AND POLITICAL
6 SUBDIVISIONS OF ANOTHER STATE OR STATES.

7 (VIII) AN ELECTRIC COOPERATIVE OF ANOTHER STATE.

8 NOTHING IN THIS CLAUSE SHALL PROHIBIT COUNCIL FROM ENGAGING IN
9 ADVERTISING, BIDDING OR PRICE QUOTATIONS IF THE COUNCIL
10 DETERMINES THAT THE ADVERTISING, BIDDING OR PRICE QUOTATIONS ARE
11 IN THE PUBLIC INTEREST.

12 * * *

13 SECTION 2. SECTIONS 1403(A) AND 1405 OF THE ACT, AMENDED
14 JULY 10, 1990 (P.L.383, NO.90), ARE AMENDED TO READ:

15 SECTION 1403. EVASION OF ADVERTISING REQUIREMENTS.--(A) NO
16 MEMBER OR MEMBERS OF COUNCIL SHALL EVADE THE PROVISIONS OF
17 SECTION 1402 HEREOF AS TO ADVERTISING FOR BIDS, BY PURCHASING OR
18 CONTRACTING FOR SERVICES AND PERSONAL PROPERTIES PIECEMEAL FOR
19 THE PURPOSE OF OBTAINING PRICES UNDER [TEN THOUSAND DOLLARS
20 (\$10,000)] THE AMOUNT SPECIFIED OR ADJUSTED UNDER SECTION
21 1402(A) UPON TRANSACTIONS, WHICH TRANSACTIONS SHOULD, IN THE
22 EXERCISE OF REASONABLE DISCRETION AND PRUDENCE, BE CONDUCTED AS
23 ONE TRANSACTION AMOUNTING TO MORE THAN [TEN THOUSAND DOLLARS
24 (\$10,000)] THE AMOUNT SPECIFIED OR ADJUSTED UNDER SECTION
25 1402(A). THIS PROVISION IS INTENDED TO MAKE UNLAWFUL THE EVADING
26 OF ADVERTISING REQUIREMENTS BY MAKING A SERIES OF PURCHASES OR
27 CONTRACTS, EACH FOR LESS THAN THE ADVERTISING REQUIREMENT PRICE,
28 OR BY MAKING SEVERAL SIMULTANEOUS PURCHASES OR CONTRACTS, EACH
29 BELOW SAID PRICE, WHEN, IN EITHER CASE, THE TRANSACTIONS
30 INVOLVED SHOULD HAVE BEEN MADE AS ONE TRANSACTION FOR ONE PRICE.

1 ANY MEMBERS OF COUNCIL WHO SO VOTE IN VIOLATION OF THIS
2 PROVISION AND WHO KNOW THAT THE TRANSACTION UPON WHICH THEY SO
3 VOTE IS OR OUGHT TO BE A PART OF A LARGER TRANSACTION AND THAT
4 IT IS BEING DIVIDED IN ORDER TO EVADE THE REQUIREMENTS AS TO
5 ADVERTISING FOR BIDS, SHALL BE JOINTLY AND SEVERALLY SUBJECT TO
6 SURCHARGE FOR TEN PERCENT OF THE FULL AMOUNT OF THE CONTRACT OR
7 PURCHASE. WHENEVER IT SHALL APPEAR THAT A MEMBER OF COUNCIL MAY
8 HAVE VOTED IN VIOLATION OF THIS SECTION BUT THE PURCHASE OR
9 CONTRACT ON WHICH HE SO VOTED WAS NOT APPROVED BY COUNCIL, THIS
10 SECTION SHALL BE INAPPLICABLE.

11 * * *

12 SECTION 1405. SEPARATE BIDS FOR PLUMBING, HEATING,
13 VENTILATING AND ELECTRICAL WORK.--IN THE PREPARATION FOR THE
14 ERECTION, CONSTRUCTION AND ALTERATION OF ANY PUBLIC BUILDING,
15 WHEN THE ENTIRE COST OF SUCH WORK SHALL EXCEED [TEN THOUSAND
16 DOLLARS (\$10,000)] THE AMOUNT SPECIFIED OR ADJUSTED UNDER
17 SECTION 1402(A), THE ARCHITECT, ENGINEER, OR OTHER PERSON
18 PREPARING SUCH SPECIFICATIONS MAY, IF SO REQUESTED BY THE
19 BOROUGH COUNCIL, PREPARE SEPARATE SPECIFICATIONS FOR THE
20 PLUMBING, HEATING, VENTILATING AND ELECTRICAL WORK. THE PERSON
21 OR PERSONS AUTHORIZED TO ENTER INTO CONTRACTS FOR THE ERECTION,
22 CONSTRUCTION OR ALTERATION OF SUCH PUBLIC BUILDINGS MAY, IF SUCH
23 SEPARATE SPECIFICATIONS SHALL HAVE BEEN PROPOSED, RECEIVE
24 SEPARATE BIDS UPON EACH OF THE SAID BRANCHES OF WORK AND SHALL
25 THEREUPON AWARD THE CONTRACT FOR THE SAME TO THE LOWEST
26 RESPONSIBLE BIDDER FOR EACH OF SAID BRANCHES.

27 SECTION 3. THIS ACT SHALL APPLY TO CONTRACTS AND PURCHASES
28 ADVERTISED AFTER DECEMBER 31 OF THE YEAR IN WHICH THIS SECTION
29 TAKES EFFECT.

30 SECTION 4. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.