

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 283** Session of
2011

INTRODUCED BY BAKER, EICHELBERGER, KASUNIC, FOLMER, GORDNER,
BOSCOLA, ORIE, RAFFERTY, YAW, M. WHITE, D. WHITE, ERICKSON,
ALLOWAY, BRUBAKER, GREENLEAF, SMUCKER, WAUGH, FERLO, ROBBINS,
VANCE, EARLL, SCARNATI, McILHINNEY, PICCOLA, WARD AND BROWNE,
JANUARY 26, 2011

AS AMENDED ON THIRD CONSIDERATION, SEPTEMBER 26, 2011

AN ACT

1 Amending the act of May 1, 1933 (P.L.103, No.69), entitled, as
2 reenacted and amended, "An act concerning townships of the
3 second class; and amending, revising, consolidating and
4 changing the law relating thereto," further providing for
5 competitive bidding of contracts.

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

8 Section 1. Section 3102(a), (b) and (h) of the act of May 1,
9 1933 (P.L.103, No.69), known as The Second Class Township Code,
10 reenacted and amended November 9, 1995 (P.L.350, No.60) and
11 amended December 18, 1996 (P.L.1142, No.172), December 19, 1996
12 (P.L.1412, No.181) and October 11, 2000 (P.L.535, No.70), are
13 amended and the section is amended by adding a subsection to
14 read:

15 Section 3102. Letting Contracts.--(a) All contracts or
16 purchases in excess of the required advertising base amount of
17 [ten thousand dollars (\$10,000)] eighteen thousand five hundred
18 dollars (\$18,500), subject to adjustment under subsection (b.1),

1 except those specifically excluded, shall not be made except
2 with and from the lowest responsible bidder after due notice in
3 one newspaper of general circulation in the township. The notice
4 for bids shall be published at least two times at intervals of
5 not less than three days in daily newspapers or once a week for
6 two successive weeks in weekly newspapers. The first
7 advertisement shall be published not more than forty-five days,
8 and the second advertisement not less than ten days, before the
9 date set for the opening of bids. Notice of proposed contracts
10 or purchases shall also be posted where the board of supervisors
11 normally meets or in a conspicuous place within the township.
12 Any published notice for bids shall contain full plans and
13 specifications, or refer to the places where copies thereof can
14 be obtained, state the amount of the performance bond determined
15 under subsection (g) and give the date, time and place of a
16 meeting at which an individual or committee appointed by the
17 board of supervisors or the board of supervisors will open and
18 read the bids.

19 (b) Written or telephonic price quotations from at least
20 three qualified and responsible contractors shall be requested
21 for all contracts [that exceed four thousand dollars (\$4,000)]
22 in excess of the base amount of ten thousand dollars (\$10,000),
23 subject to adjustment under subsection (b.1), but are less than
24 the amount requiring advertisement and competitive bidding, or,
25 in lieu of price quotations, a memorandum shall be kept on file
26 showing that fewer than three qualified contractors exist in the
27 market area within which it is practicable to obtain quotations.
28 A written record of telephonic price quotations shall be made
29 and shall contain at least the date of the quotation, the name
30 of the contractor and the contractor's representative, the

1 construction, reconstruction, repair, maintenance or work which
2 was the subject of the quotation and the price. Written price
3 quotations, written records of telephonic price quotations and
4 memoranda shall be retained for a period of three years.

5 (b.1) Adjustments to the base amounts specified under
6 subsections (a) and (b) shall be made as follows:

7 (1) The Department of Labor and Industry shall determine the
8 percentage change in the All Items Consumer Price Index for All
9 Urban Consumers (CPI-U) for the United States City Average as
10 published by the United States Department of Labor, Bureau of
11 Labor Statistics for the twelve-month period ending September
12 30, 2012, and for each successive twelve-month period
13 thereafter.

14 (2) If the department determines that there is no positive
15 percentage change, then no adjustment to the base amounts shall
16 occur for the relevant time period provided for in this
17 subsection.

18 (3) (i) If the department determines that there is a
19 positive percentage change in the first year that the
20 determination is made under paragraph (1), the positive
21 percentage change shall be multiplied by each base amount and
22 the products shall be added to the base amounts, respectively,
23 and the sums shall be preliminary adjusted amounts.

24 (ii) The preliminary adjusted amounts shall be rounded to
25 the nearest one thousand dollars ~~(\$1,000)~~ HUNDRED DOLLARS
26 (\$100), to determine the final adjusted base amounts for
27 purposes of subsections (a) and (b).

28 (4) In each successive year in which there is a positive
29 percentage change in the CPI-U for the United States City
30 Average, the positive percentage change shall be multiplied by



1 the most recent preliminary adjusted amounts and the products
2 shall be added to the preliminary adjusted amount of the prior
3 year to calculate the preliminary adjusted amounts for the
4 current year. The sums thereof shall be rounded to the nearest
5 one thousand dollars (\$1,000) HUNDRED DOLLARS (\$100) to
6 determine the new final adjusted base amounts for purposes of
7 subsections (a) and (b).



8 (5) The determinations and adjustments required under this
9 subsection shall be made in the period between October 1 and
10 November 15 of the year following the effective date of this
11 subsection, and annually between October 1 and November 15 of
12 each year thereafter.

13 (6) The final adjusted base amounts and new final adjusted
14 base amounts obtained under paragraphs (3) and (4) shall become
15 effective January 1 for the calendar year following the year in
16 which the determination required under paragraph (1) is made.

17 (7) The department shall publish notice in the Pennsylvania
18 Bulletin prior to January 1 of each calendar year of the annual
19 percentage change determined under paragraph (1) and the
20 unadjusted or final adjusted base amounts determined under
21 paragraphs (3) and (4) at which competitive bidding is required
22 under subsection (a) and written or telephonic price quotations
23 are required under subsection (b), respectively, for the
24 calendar year beginning the first day of January after
25 publication of the notice. The notice shall include a written
26 and illustrative explanation of the calculations performed by
27 the department in establishing the unadjusted or final adjusted
28 base amounts under this subsection for the ensuing calendar
29 year.

30 (8) No adjustment to the base amounts specified under



1 ~~subsections (a) and (b) shall exceed three percent of the most~~
2 ~~recently adjusted base amount~~ THE ANNUAL INCREASE IN THE
3 ~~PRELIMINARY ADJUSTED BASE AMOUNTS OBTAINED UNDER PARAGRAPHS (3)~~
4 ~~AND (4) SHALL NOT EXCEED THREE PERCENT.~~



5 * * *

6 (h) The contracts or purchases made by the board of
7 supervisors involving payments in excess of the required
8 advertising amount, which do not require advertising, bidding or
9 price quotations are as follows:

10 (1) Those made for emergency, or routine maintenance,
11 repairs or replacements for water, electric light and other
12 public works of the township if they do not constitute new
13 additions, extensions or enlargements of existing facilities and
14 equipment.

15 (2) Those made for improvements, repairs or maintenance of
16 any kind made or provided by any township through its own
17 employes. All contracts or purchases of materials used for
18 improvement, maintenance or construction [in excess of four
19 thousand dollars (\$4,000) but less than the required advertising
20 amount] are subject to the provisions contained in subsection
21 (a) and (b)[, and those contracts or purchases in excess of the
22 required advertising amount are subject to the advertising
23 requirements contained in subsection (a)].

24 (3) Those involving any policies of insurance or surety
25 company bonds, those made for public utility service, those made
26 for electricity, natural gas or telecommunications service
27 either directly or with an association authorized under Article
28 XIV in which the township is a member and those made with
29 another municipal corporation, county, school district or
30 municipality authority or Federal or State Government, including

1 the sale, leasing or loan of any supplies or materials by the
2 Federal or State Government or their agencies.

3 (4) Those involving personal or professional services.

4 (5) Those made for materials and supplies or equipment
5 rental under emergency conditions under 35 Pa.C.S. Pt. V
6 (relating to emergency management services).

7 (6) Those contracts involving equipment rental with
8 operators if more than fifty percent of the total labor
9 personnel hours required for the completion of the contract is
10 supplied by the township through its own employes.

11 (7) Those contracts for the purchase of repair parts or
12 materials for use in existing township equipment or facilities
13 if the item or material to be purchased is the sole item of its
14 kind on the market or is manufactured as a replacement for the
15 original item or equipment being repaired.

16 (8) Those for used equipment, articles, apparatus,
17 appliances, vehicles or parts thereof being purchased from a
18 public utility.

19 (9) Those where particular types, models or pieces of
20 equipment, articles, apparatus, appliances, vehicles or parts
21 thereof which are patented and manufactured products.

22 * * *

23 Section 2. This act shall apply to contracts and purchases
24 advertised on or after January 1 of the year following the
25 effective date of this section.

26 Section 3. This act shall take effect immediately.