

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 295** Session of
2011

INTRODUCED BY WAUGH, EICHELBERGER, KASUNIC, FOLMER, GORDNER,
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BAKER, ALLOWAY, BRUBAKER, GREENLEAF, SMUCKER, FERLO, ROBBINS,
VANCE, EARLL, SCARNATI, McILHINNEY, PICCOLA AND BROWNE,
JANUARY 26, 2011

AS AMENDED ON THIRD CONSIDERATION, SEPTEMBER 26, 2011

AN ACT

1 Amending the act of May 28, 1937 (P.L.955, No.265), entitled, as
2 amended, "An act to promote public health, safety, morals,
3 and welfare by declaring the necessity of creating public
4 bodies, corporate and politic, to be known as housing
5 authorities to engage in slum clearance, and to undertake
6 projects, to provide dwelling accommodations for persons of
7 low income; providing for the organization of such housing
8 authorities; defining their powers and duties; providing for
9 the exercise of such powers, including the acquisition of
10 property by purchase, gift or eminent domain, the renting and
11 selling of property, and including borrowing money, issuing
12 bonds, and other obligations, and giving security therefor;
13 prescribing the remedies of obligees of housing authorities;
14 authorizing housing authorities to enter into agreements,
15 including agreements with the United States, the
16 Commonwealth, and political subdivisions and municipalities
17 thereof; defining the application of zoning, sanitary, and
18 building laws and regulations to projects built or maintained
19 by such housing authorities; exempting the property and
20 securities of such housing authorities from taxation; and
21 imposing duties and conferring powers upon the State Planning
22 Board, and certain other State officers and departments,"
23 further providing for awards of contracts, completion bond,
24 additional bond for protection of materialmen and others.

25 The General Assembly of the Commonwealth of Pennsylvania

26 hereby enacts as follows:

27 Section 1. Section 11 of the act of May 28, 1937 (P.L.955,

1 No.265), known as the Housing Authorities Law, amended May 20,
2 1949 (P.L.1614, No.486), February 16, 1990 (P.L.67, No.13) and
3 November 21, 1990 (P.L.569, No.143), is amended to read:

4 Section 11. Awards of Contracts; Completion Bond; Additional
5 Bond for Protection of Materialmen and Others.--

6 (a) Whenever the estimated cost of any construction,
7 erection, installation, completion, alteration, repair of, or
8 addition to, any project subject to the control of any Authority
9 shall exceed [ten thousand (\$10,000) dollars] the base amount of
10 eighteen thousand five hundred (\$18,500) dollars subject to
11 adjustment under subsection (b.3), it shall be the duty of said
12 Authority to have such work performed pursuant to a contract
13 awarded to the lowest responsible bidder, after advertisement
14 for bids. Every such contract shall contain a provision
15 obligating the contractor to the prompt payment of all material
16 furnished, labor supplied or performed, rental for equipment
17 employed, and services rendered by public utilities in or in
18 connection with the prosecution of the work, whether or not the
19 said material, labor, equipment or service enter into and become
20 component parts of the work or improvement contemplated. Such
21 provision shall be deemed to be included for the benefit of
22 every person, copartnership, association or corporation who, as
23 subcontractor or otherwise, has furnished material, supplied or
24 performed labor, rented equipment or services in or in
25 connection with the prosecution of the work as aforesaid, and
26 the inclusion thereof in any contract shall preclude the filing
27 by any such person, copartnership, association or corporation of
28 any mechanics' lien claim for such material, labor or rental of
29 equipment.

30 (b) Whenever the estimated cost of any purchase of supplies,

1 materials or equipment or the rental of any equipment, whether
2 or not the same is to be used in connection with the
3 construction, erection, installation, completion, alteration,
4 repair of, or addition to, any project subject to the control of
5 any Authority, shall exceed [ten thousand (\$10,000) dollars]
6 the base amount of eighteen thousand five hundred (\$18,500)
7 dollars subject to adjustment under subsection (b.3), it shall
8 be the duty of such Authority to have such purchase or rental
9 made pursuant to a contract awarded to the lowest responsible
10 bidder, after advertisement for bids, such advertisement to be
11 inserted in a newspaper of general circulation within the county
12 in which the Authority operates.

13 (b.1) An authority shall not evade the provisions of
14 subsection (a) or (b) as to advertising for bids by purchasing
15 materials or contracting for services piecemeal for the purpose
16 of obtaining prices under [ten thousand (\$10,000) dollars] the
17 base amount of eighteen thousand five hundred (\$18,500) dollars
18 subject to adjustment under subsection (b.3) upon transactions
19 which should, in the exercise of reasonable discretion and
20 prudence, be conducted as one transaction amounting to more than
21 [ten thousand (\$10,000) dollars] the base amount of eighteen
22 thousand five hundred (\$18,500) dollars subject to adjustment
23 under subsection (b.3). This provision is intended to make
24 unlawful the practice of evading advertising requirements by
25 making a series of purchases or contracts, each for less than
26 the advertising requirement price, or by making several
27 simultaneous purchases or contracts, each below said price,
28 when, in either case, the transactions involved should have been
29 made as one transaction for one price.

30 (b.2) Written or telephonic price quotations from at least

1 three qualified and responsible contractors shall be requested
2 for all contracts that exceed [four thousand (\$4,000) dollars]
3 the base amount of ten thousand (\$10,000) dollars subject to
4 adjustment under subsection (b.3) but are less than the amount
5 requiring advertisement and competitive bidding or, in lieu of
6 price quotations, a memorandum shall be kept on file showing
7 that fewer than three qualified contractors exist in the market
8 area within which it is practicable to obtain quotations. A
9 written record of telephonic price quotations shall be made and
10 shall contain at least the date of the quotation, the name of
11 the contractor and the contractor's representative, the
12 construction, reconstruction, repair, maintenance or work which
13 was the 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 (b.3) Adjustments to the base amounts specified under
17 subsections (a) and (b) 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
23 30, 2012, and for each successive twelve-month period
24 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) HUNDRED DOLLARS ←
7 (\$100), to determine the final adjusted base amounts for
8 purposes of subsections (a) and (b).

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 ~~thousand dollars~~ (\$1,000) HUNDRED DOLLARS (\$100) to ←
17 determine the new final adjusted base amounts for purposes of
18 subsections (a) and (b).

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

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

28 (7) The department shall publish notice in the Pennsylvania
29 Bulletin prior to January 1 of each calendar year of the annual
30 percentage change determined under paragraph (1) and the

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

11 ~~(8) No adjustment to the base amounts specified under~~ ←
12 ~~subsections (a) and (b) shall exceed three percent of the most~~
13 ~~recently adjusted base amount. THE ANNUAL INCREASE IN THE~~ ←
14 PRELIMINARY ADJUSTED BASE AMOUNTS OBTAINED UNDER SUBCLAUSES (3)
15 AND (4) SHALL NOT EXCEED THREE PER CENTUM (3%).

16 (c) A housing authority shall require as a condition of the
17 award of any contract, pursuant to subsection (a) or (b) of this
18 section, that the contractor give to the Authority any bond
19 (including bonds for the performance of the contract, and for
20 the prompt payment by the contractor for material, supplies,
21 labor, services and equipment) which are prescribed by law for
22 contracts awarded by cities or counties, as the case may be, of
23 the same class as the city or county for which such Authority
24 has been created.

25 (d) Notwithstanding anything to the contrary contained in
26 this act or in any other provision of law, a housing authority
27 may include, in any contract let in connection with a project,
28 stipulations requiring that the contractor and any
29 subcontractors comply with requirements as to minimum wages and
30 maximum hours of labor, and comply with any conditions which the

1 Federal or State Government may have attached to its financial
2 aid of the project.

3 (e) Every Authority awarding contracts or requiring the
4 delivery of bonds pursuant to this section shall keep an exact
5 copy of every contract awarded or bond delivered upon file at
6 its principal office. Subject to regulations to be prescribed by
7 the State Planning Board for their safe keeping such copies
8 shall be opened to public inspection.

9 (f) Any authority member who votes to unlawfully evade the
10 provisions of this section and who knows that the transaction
11 upon which he so votes is or ought to be a part of a larger
12 transaction and that it is being divided in order to evade the
13 requirements as to advertising for bids commits a misdemeanor of
14 the third degree for each contract entered into as a direct
15 result of that vote.

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

19 Section 3. This act shall take effect immediately.