
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1977 Session of
2015

INTRODUCED BY NEUMAN, DERMODY, HANNA, GOODMAN, CARROLL,
YOUNGBLOOD, STURLA, FRANKEL, MARKOSEK, J. HARRIS, McNEILL,
D. COSTA, SCHWEYER, KIM, BULLOCK, DeLUCA, DEAN, GIBBONS,
FREEMAN, PASHINSKI, SCHLOSSBERG, BARRAR, MACKENZIE, MULLERY,
TRUITT, D. MILLER, SANTARSIERO, CONKLIN, DAVIS AND KAVULICH,
APRIL 11, 2016

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 11, 2016

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, in ethics in public contracting, providing for
3 definitions and for disclosure of contributions by
4 contractors.

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

7 Section 1. Title 62 of the Pennsylvania Consolidated
8 Statutes is amended by adding sections to read:

9 § 2301.1. Definitions.

10 The following words and phrases when used in this chapter
11 shall have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Affiliate." Any of the following:

14 (1) A parent, subsidiary or otherwise affiliated entity
15 of an applicant or a contractor.

16 (2) An officer, director, associate, controlling
17 shareholder, individual owner, partner or limited partner of

1 an applicant or a contractor.

2 (3) An officer, director, associate, controlling
3 shareholder, individual owner, partner or limited partner of
4 a parent, subsidiary or otherwise affiliated entity of an
5 applicant or a contractor.

6 (4) A political committee controlled by an applicant or
7 a contractor.

8 (5) A political committee controlled by a parent,
9 subsidiary or otherwise affiliated entity of an applicant or
10 a contractor.

11 (6) A lobbyist or lobbying firm identified on an
12 applicant's disclosure statement or a contractor's updated
13 disclosure statement.

14 "Applicant." A bidder, offeror or other person seeking a
15 contract, which is to be awarded under section 513 (relating to
16 competitive sealed proposals), 514 (relating to small
17 procurements), 515 (relating to sole source procurement), 516
18 (relating to emergency procurement), 518 (relating to
19 competitive selection procedures for certain services) or 519
20 (relating to selection procedure for insurance and notary
21 bonds).

22 "Elected official." An individual elected by the public to
23 serve a term in an elective office. The term shall include an
24 individual appointed to fill an unexpired term in an elective
25 office.

26 "Elective office." A position in a governmental body to
27 which an individual is required under the Constitution of
28 Pennsylvania or by State law to be elected by the public.

29 "Lobbying." As defined in 65 Pa.C.S. § 13A03 (relating to
30 definitions).

1 "Lobbying firm." As defined in 65 Pa.C.S. § 13A03 (relating
2 to definitions).

3 "Lobbyist." As defined in 65 Pa.C.S. § 13A03 (relating to
4 definitions).

5 "Reportable contribution." Any of the following:

6 (1) A contribution made by an applicant or a contractor
7 or an affiliate of an applicant or a contractor to:

8 (i) a candidate for nomination or election to an
9 elective office or to the candidate's political
10 committee;

11 (ii) an elected official or to the elected
12 official's candidate political committee; or

13 (iii) a political committee not described in
14 subparagraph (i) with the purpose and intent that the
15 political committee will, directly or indirectly, make
16 the contribution available to a candidate for nomination
17 or election to an elective office or to the candidate's
18 political committee, or to an elected official or the
19 elected official's candidate political committee.

20 (2) A contribution made by a person to a candidate for
21 nomination or election to an elective office or to the
22 candidate's political committee, or to an elected official or
23 to the elected official's candidate political committee, for
24 which a person who is an applicant or a contractor or any of
25 their respective affiliates acts as an intermediary.

26 § 2304. Disclosure of contributions by contractors.

27 (a) Initial disclosure requirements.--

28 (1) A Commonwealth agency may not award a contract to an
29 applicant under section 513 (relating to competitive sealed
30 proposals), 514 (relating to small procurements), 515

1 (relating to sole source procurement), 516 (relating to
2 emergency procurement), 518 (relating to competitive
3 selection procedures for certain services) or 519 (relating
4 to selection procedure for insurance and notary bonds),
5 unless the applicant has submitted to the agency a completed
6 and signed disclosure statement that sets forth the
7 information required under subsection (c) and is otherwise in
8 compliance with this section.

9 (2) Except as provided in paragraph (3), an applicant
10 shall submit a completed and signed disclosure statement to
11 the agency with other bid or proposal materials relating to
12 the contract on or prior to the time and date established by
13 the agency for receipt of bids or proposals.

14 (3) For contracts awarded under section 514, 515 or 516
15 that do not require the submission of bids or offers, an
16 applicant shall submit a completed disclosure statement as
17 directed by the agency, but prior to the agency's award of
18 the contract.

19 (4) A bid or offer made without a completed and signed
20 disclosure statement may not be considered a responsive bid
21 or offer.

22 (b) Requirements to update disclosures.--

23 (1) During the term of the contract and for one year
24 thereafter, a contractor who has been awarded a contract
25 under section 513, 514, 515, 516, 518 or 519 shall submit an
26 updated disclosure statement to the agency within five days
27 following making a reportable contribution or learning that
28 an affiliate has made a reportable contribution. An updated
29 disclosure statement shall include the reportable
30 contributions made since the date of the first disclosure

1 statement submitted.

2 (2) A contract awarded under section 513, 514, 515, 516,
3 518 or 519 must contain a provision requiring the contractor
4 to submit an updated disclosure statement as required under
5 paragraph (1).

6 (c) Form of disclosure statements.--

7 (1) The department shall develop a form of disclosure
8 statement to be used by applicants and contractors under this
9 section.

10 (2) The invitations for bids, requests for proposals and
11 other agency communications with prospective contractors
12 regarding a contract awarded under section 513, 514, 515,
13 516, 518 or 519 must include a disclosure statement form and
14 information regarding the disclosure requirements of this
15 section.

16 (3) The department and the Department of State shall
17 post the disclosure statement form and information regarding
18 the disclosure requirements of this section on their
19 respective publicly accessible Internet websites and shall
20 otherwise make the forms and information available upon
21 request.

22 (d) Content of disclosure statements and updates.--A
23 disclosure statement submitted under subsection (a) shall
24 include the following information:

25 (1) The name, business address and telephone number of
26 the applicant or contractor.

27 (2) The contract number or other identifying information
28 regarding the contract sought by the applicant or awarded to
29 the contractor.

30 (3) The names, business addresses and telephone numbers

1 of the lobbyists and lobbying firms paid by the applicant to
2 lobby a Commonwealth agency to influence the awarding of a
3 contract within one year prior to the date of an applicant's
4 bid, offer or proposal.

5 (4) A list of the reportable contributions made within
6 one year prior to the date of the applicant's bid, offer or
7 proposal. For each reportable contribution made, the
8 applicant shall identify the recipient of the contribution
9 and the date and amount of the contribution.

10 (5) The fundraising events hosted by an applicant or any
11 of the applicant's affiliates within one year prior to the
12 date of the applicant's bid, offer or proposal for the
13 purpose of soliciting or receiving reportable contributions
14 and the date and amount of reportable contributions solicited
15 or received at each event. An updated disclosure statement
16 shall be submitted during the term of a contract within five
17 days following a fundraising event described in this
18 paragraph hosted by a contractor or an affiliate of a
19 contractor.

20 (6) The name, business address and telephone number of
21 all subcontractors which the applicant intends to use on the
22 contract or which the contractor is using on the contract.

23 (e) Posting of disclosure statements and updates.--

24 (1) A Commonwealth agency shall promptly transmit to the
25 Department of State a copy of the disclosure statement and
26 each updated disclosure statement it receives from an
27 applicant or a contractor under this section.

28 (2) The Department of State shall post each disclosure
29 statement and each updated disclosure statement received
30 under this section on its publicly accessible Internet

1 website no later than five days after the disclosure
2 statement or update has been received by the department. A
3 disclosure statement and related updates shall remain posted
4 for a period of time encompassing the length of the contract
5 and one year thereafter. To the extent practicable, a
6 disclosure statement and related updates shall be posted
7 together.

8 (3) The Department of State shall make disclosure
9 statements and updated disclosure statements received under
10 this section available for public inspection and copying.

11 (f) Penalties.--In addition to other penalties that may be
12 assessed under other law, an applicant or a contractor who makes
13 a material misstatement or omission in a disclosure statement or
14 updated disclosure statement may be debarred or suspended under
15 section 531 (relating to debarment or suspension).

16 (g) Application of section.--This section shall apply to a
17 bid, offer or proposal that is solicited on or after the
18 effective date of this section.

19 Section 2. This act shall take effect immediately.