

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1364 Session of 2017

INTRODUCED BY JAMES, HARPER, KAMPF, FREEMAN AND DALEY, MAY 9, 2017

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 14, 2017

AN ACT

1 Amending the act of October 27, 1979 (P.L.241, No.78), entitled
2 "An act authorizing political subdivisions, municipality
3 authorities and transportation authorities to enter into
4 contracts for the purchase of goods and the sale of real and
5 personal property where no bids are received," further
6 providing for title of the act; adding a short title; and
7 providing for contracts for services.

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

10 Section 1. The title of the act of October 27, 1979
11 (P.L.241, No.78), entitled "An act authorizing political
12 subdivisions, municipality authorities and transportation
13 authorities to enter into contracts for the purchase of goods
14 and the sale of real and personal property where no bids are
15 received," is amended to read:

AN ACT

17 Authorizing political subdivisions, municipality authorities and
18 transportation authorities to enter into contracts for
19 services, the purchase of goods and the sale of real and
20 personal property where no bids are received.

1 Section 2. The act is amended by adding a section to read:

2 Section 1. Short title.

3 This act shall be known and may be cited as the Public
4 Contract Bid Nonreceipt Act.

5 Section 3. Section 1 of the act is renumbered and amended ~~by~~ <--
6 ~~adding subsections~~ to read:

7 Section [1] 1.1. Nonreceipt of bids.

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9 (A) PURCHASE OF GOODS.--WHEN A POLITICAL SUBDIVISION, <--
10 MUNICIPALITY AUTHORITY OR TRANSPORTATION AUTHORITY ADVERTISES
11 FOR BIDS ON AN ITEM AND NO BIDS ARE RECEIVED, THE POLITICAL
12 SUBDIVISION, MUNICIPALITY AUTHORITY OR TRANSPORTATION AUTHORITY
13 SHALL REBID THE ITEM. IF [AGAIN SUCH BIDS ARE NOT RECEIVED] NO
14 BIDS ARE RECEIVED FROM SUPPLIERS OF THE ITEM WITHIN 15 DAYS OF
15 THE SECOND ADVERTISEMENT, THE POLITICAL SUBDIVISION,
16 MUNICIPALITY AUTHORITY OR TRANSPORTATION AUTHORITY MAY PURCHASE
17 OR ENTER INTO CONTRACTS FOR THE PURCHASE OF [ANY] THE ITEM
18 [WHERE NO BIDS ARE RECEIVED FROM SUPPLIERS FOR THE ITEM WITHIN
19 45 DAYS OF THE DATE OF SECOND ADVERTISEMENT THEREFOR].

20 (B) SALE OF PROPERTY.--WHEN A POLITICAL SUBDIVISION,
21 MUNICIPALITY AUTHORITY OR TRANSPORTATION AUTHORITY IS REQUIRED
22 TO ADVERTISE FOR BIDS IN ORDER TO SELL REAL OR PERSONAL PROPERTY
23 AND NO BIDS ARE RECEIVED, THE POLITICAL SUBDIVISION,
24 MUNICIPALITY AUTHORITY OR TRANSPORTATION AUTHORITY MAY PROCEED
25 AS FOLLOWS:

26 (1) THE POLITICAL SUBDIVISION, MUNICIPALITY AUTHORITY OR
27 TRANSPORTATION AUTHORITY MAY ADVERTISE FOR BIDS A SECOND
28 TIME.

29 (2) IF NO BIDS ARE RECEIVED WITHIN 15 DAYS OF THE SECOND
30 ADVERTISEMENT, THE POLITICAL SUBDIVISION, MUNICIPALITY

1 AUTHORITY OR TRANSPORTATION AUTHORITY MAY INITIATE
2 NEGOTIATIONS FOR A PRIVATE SALE OF THE PROPERTY, TAKING INTO
3 CONSIDERATION ITS FAIR MARKET VALUE.

4 (3) THE POLITICAL SUBDIVISION, MUNICIPALITY AUTHORITY OR
5 TRANSPORTATION AUTHORITY MUST PUBLICLY ANNOUNCE THE IDENTITY
6 OF THE PARTIES, THE SALE PRICE AND A SUMMARY OF THE OTHER
7 TERMS AND CONDITIONS RELATING TO ANY PROPOSED PRIVATE SALE AT
8 A REGULAR OR SPECIAL MEETING OF ITS GOVERNING BODY.

9 (4) AFTER THE PUBLIC ANNOUNCEMENT OF THE SALE IS MADE IN
10 ACCORDANCE WITH PARAGRAPH (3), AT LEAST 30 DAYS MUST ELAPSE
11 BEFORE A POLITICAL SUBDIVISION, MUNICIPALITY AUTHORITY OR
12 TRANSPORTATION AUTHORITY MAY AUTHORIZE THE PRIVATE SALE IN
13 ACCORDANCE WITH THIS SUBSECTION.

14 (c) Contracts for services.--When a political subdivision,
15 municipality authority or transportation authority is required
16 to advertise for bids in order to enter into a contract for
17 services and no bids are received, the political subdivision,
18 municipality authority or transportation authority may proceed
19 as follows:

20 (1) The political subdivision, municipality authority or
21 transportation authority may advertise for bids a second
22 time.

23 (2) If no bids are received within 15 days of the second
24 advertisement, the political subdivision, municipality
25 authority or transportation authority may initiate
26 negotiations for a contract to obtain the services previously
27 advertised, with any provider not otherwise disqualified by
28 law or an enactment or policy of the governing body.

29 (3) Prior to executing the contract, the political
30 subdivision, municipality authority or transportation

1 authority, at a regular or special meeting of its governing
2 body, must publicly announce the identity of the parties, the
3 proposed contract price and a summary of the other terms and
4 conditions relating to any proposed contract in order to
5 demonstrate that the services to be procured are consistent
6 with those previously advertised.

7 (d) Evasion.--The penalties, civil or criminal, surcharges
8 and other liability set forth in law, regulation or ordinance
9 for evading an advertising requirement for bids shall apply to a
10 member of the governing body of a political subdivision,
11 municipality authority or transportation authority who votes for
12 a transaction under this section with the intent to evade the
13 advertising requirement of the applicable law, regulation or
14 ordinance.

15 (e) Definition.--As used in this section, the term
16 "services" means the furnishing of labor, time or effort by a
17 contractor not involving the delivery of a specific end product
18 other than drawings, specifications or reports which are merely
19 incidental to the required performance. The term includes the
20 routine operation or maintenance of existing structures,
21 buildings or real property, the repair or rehabilitation of
22 existing infrastructure and utility services, or those services
23 formerly provided by public utilities, such as electrical,
24 telephone, water and sewage service. The term does not include
25 employment agreements or collective bargaining agreements.

26 Section 4. This act shall take effect in 60 days.