
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 104 Session of
2019

INTRODUCED BY MARTIN, GORDNER, FOLMER, AUMENT, YAW, PHILLIPS-
HILL, DiSANTO, REGAN AND STEFANO, JANUARY 24, 2019

REFERRED TO LABOR AND INDUSTRY, JANUARY 24, 2019

AN ACT

1 Providing for open contracting by the Commonwealth and its
2 political subdivisions and their agencies and authorities.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Open
7 Contracting Act.

8 Section 2. Definitions.

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

12 "Public body." The Commonwealth or any of its political
13 subdivisions, or an agency or authority of either.

14 "Public works." Construction, reconstruction, demolition,
15 alteration or repair work, other than routine maintenance work,
16 contracted for by a public body.

17 "Responsible bidder." A person, partnership or corporation
18 that has the capability in all respects to fully perform the

1 contract requirements and who has the integrity and reliability
2 which will assure good faith performance.

3 Section 3. Prohibited practices.

4 Contract specifications issued by public bodies soliciting
5 bids on public works projects may not include any of the
6 following:

7 (1) A requirement that a successful bidder or any of its
8 subcontractors utilize workers:

9 (i) represented by a designated labor organization;

10 or

11 (ii) referred by a designated labor organization.

12 (2) A requirement that a successful bidder's existing
13 workforce or any of its subcontractors' workforces affiliate
14 with or pay dues to a labor organization.

15 (3) A requirement that a successful bidder or any of its
16 subcontractors recognize a labor organization as the
17 exclusive representative of any of its employees on the
18 public works project.

19 Section 4. Discrimination prohibited.

20 No public body shall consider or use as a criterion in its
21 selection process the union or nonunion status of a bidder's
22 workforce.

23 Section 5. Enforcement.

24 (a) General rule.--A party who is aggrieved by an act
25 committed by a public body in violation of section 3 or 4 may
26 file an action in a court of competent jurisdiction to enjoin
27 the act.

28 (b) Damages and attorney fees.--A court of competent
29 jurisdiction may award damages and reasonable attorney fees to
30 an aggrieved party that is successful in an action filed under

- 1 subsection (a).
- 2 Section 6. Effective date.
- 3 This act shall take effect in 60 days.