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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 709 Session of  
2021

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INTRODUCED BY ZABEL, HANBIDGE, HILL-EVANS, FREEMAN, CIRESI,  
McNEILL, WEBSTER, BURGOS, SHUSTERMAN, OTTEN, O'MARA,  
GALLOWAY, MOUL, SCHWEYER, LEE, KRAJEWSKI, T. DAVIS,  
INNAMORATO, MADDEN AND DELLOSO, MARCH 1, 2021

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 1, 2021

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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  
18 an applicant or a contractor.

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

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

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

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

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

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

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

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

30           "Lobbying firm." As defined in 65 Pa.C.S. § 13A03.

1 "Lobbyist." As defined in 65 Pa.C.S. § 13A03.

2 "Reportable contribution." Any of the following:

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

5 (i) a candidate for nomination or election to an  
6 elective office or to the candidate's political  
7 committee;

8 (ii) an elected official or to the elected  
9 official's candidate political committee; or

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

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

23 § 2304. Disclosure of contributions by contractors.

24 (a) Initial disclosure requirements.--The following shall  
25 apply:

26 (1) A Commonwealth agency may not award a contract to an  
27 applicant under section 513 (relating to competitive sealed  
28 proposals), 514 (relating to small procurements), 515  
29 (relating to sole source procurement), 516 (relating to  
30 emergency procurement), 518 (relating to competitive

1 selection procedures for certain services) or 519 (relating  
2 to selection procedure for insurance and notary bonds),  
3 unless the applicant has submitted to the Commonwealth agency  
4 a completed and signed disclosure statement that provides the  
5 information required under subsection (c) and is otherwise in  
6 compliance with this section.

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

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

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

21 (b) Requirements to update disclosures.--The following shall  
22 apply:

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 Commonwealth agency  
27 within five days following making a reportable contribution  
28 or learning that an affiliate has made a reportable  
29 contribution. An updated disclosure statement shall include  
30 the reportable contributions made since the date of the first

1 disclosure 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.--The following shall  
7 apply:

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

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

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

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

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

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

1           (3) The names, business addresses and telephone numbers  
2 of the lobbyists and lobbying firms paid by the applicant to  
3 lobby a Commonwealth agency to influence the awarding of a  
4 contract within one year prior to the date of an applicant's  
5 bid, offer or proposal.

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

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

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

24           (e) Posting of disclosure statements and updates.--The  
25 following shall apply:

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

30           (2) The Department of State shall post each disclosure

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

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

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

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

21 Section 2. This act shall take effect immediately.