

No. 46

AN ACT

Amending the act of June 23, 1931 (P. L. 932), entitled "An act relating to cities of the third class; and amending, revising, and consolidating the law relating thereto," regulating contract procedures and advertising for bids.

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

The Third Class City Code.

Section 1. Section 1901, act of June 23, 1931 (P. L. 932), known as "The Third Class City Code," reenacted and amended June 28, 1951 (P. L. 662), and amended August 21, 1953 (P. L. 1292), is amended to read:

Section 1901, act of June 23, 1931, P. L. 932, reenacted and amended June 28, 1951, P. L. 662, amended August 21, 1953, P. L. 1292, further amended.

Section 1901. Power to Make Contracts; Regulations Concerning Contracts.—Each city may make contracts for carrying into execution the provisions of this act and the laws of the Commonwealth. The council shall, by ordinance, provide for and regulate the award of all contracts. No contract shall be entered into or purchase made by the city in an amount involving more than two hundred dollars except upon council's approval thereof. All contracts or purchases not in excess of [seven hundred fifty] *one thousand* dollars shall be by note or memorandum in writing, signed by the officer or employe making the purchase or contract.

All services and personal properties required by any city, or any department thereof, where the amount exceeds the sum of [seven hundred and fifty] *one thousand* dollars, shall be furnished and performed under written contract, and the contract shall be awarded and given to the lowest responsible bidder, after advertising three times, each publication on a different day, in not more than two newspapers, in accord with the provisions of section one hundred and nine of this act, and the bids shall not be opened until at least ten days have elapsed after the first advertisement.

The amount of the contract shall in all cases, whether of straight sale price, conditional sale, bailment lease, or otherwise, be the entire amount which the city pays to the successful bidder or his assigns in order to obtain the services or property or both, and shall not be construed to mean only the amount which is paid to acquire title or to receive any other particular benefit or benefits of the whole bargain.

The contracts or purchases made by council involving an expenditure of over [seven hundred and fifty] *one thousand* dollars, which shall not require advertising or bidding, as hereinbefore provided, are as follows:

(1) Those for maintenance, repairs or replacements for water, electric light or other public works of the

city, provided they do not constitute new additions, extensions or enlargements of existing facilities and equipment, but a bond may be required by council as in other cases of work done.

(2) Those made for improvements, repairs and maintenance of any kind made or provided by any city through its own employes: Provided, however, That this shall not apply to construction materials used in a street improvement.

(3) Those where particular types, models or pieces of new equipment, articles, apparatus, appliances, vehicles, or parts thereof, are desired by council, which are patented and manufactured or copyrighted products.

(4) Those involving any policies of insurance or surety company bonds; those made for public utility service under tariffs on file with the Pennsylvania Public Utility Commission; those made with another political subdivision or a county, the Commonwealth of Pennsylvania, the Federal government, any agency of the Commonwealth or the Federal government, or any municipal authority, including the sale, leasing or loan of any supplies or materials by the Commonwealth or the Federal government, or their agencies, but the price thereof shall not be in excess of that fixed by the Commonwealth, the Federal government, or their agencies.

(5) Those involving personal or professional services.

The acceptance of bids by advertising required herein shall be made by public announcement at the meeting at which bids are received by council or at a subsequent meeting, the time and place of which shall be publicly announced when bids are so received. If, for any reason, the award is not made at either of the above meetings, the same business may be transacted at a subsequent meeting, the time and place of which shall be announced at the previous meeting held for such award. At such third meeting, the council shall either award the contract or shall reject all bids.

All bids advertised for shall be accompanied by cash, by a certified good faith check drawn upon a bank authorized to do business in this Commonwealth in an amount required by council but at least ten per centum of the bid, or by a bond with corporate surety in such amount as council shall determine but not less than ten per centum of the amount bid. In the event any bidder shall, upon award of the contract to him, fail to comply with the requirements hereinafter stated as to a bond guaranteeing the performance of the contract the good faith deposit by cash, certified check, or bond, shall be forfeited to the city as liquidated damages.

Where advertising is required herein, the successful bidder shall be required to furnish a bond with suitable reasonable requirements guaranteeing the performance of the contract, with surety sufficient to council, within twenty days after the contract has been awarded, unless council prescribes a shorter period of not less than ten days, and failure to furnish such bond within such time shall avoid the award. Council may in all cases of contracts or purchases require bonds for performance, delivery, or other terms.

Where the roadway of a street is to be paved originally and for the first time, or reconstructed by putting down a new base, or a sewer is to be constructed, or grading done, such work shall be done under written contract, after advertising as provided in section one hundred and nine of this act, and such contract shall be given to the lowest responsible bidder.

The council may, by ordinance, provide for and regulate the purchase of supplies and materials and the sale of personal property.

The council may also, by ordinance, provide a contingent fund or funds for necessary repairs and incidental expenses, not otherwise provided in the general appropriations, and such funds may be expended without advertising for bids.

Section 2. Section 1902 of the act, reenacted and amended June 28, 1951 (P. L. 662), is amended to read:

Section 1902. Evasion of Advertising Requirements. —No member or members of council shall evade the provisions of the preceding section as to advertising for bids by purchasing or contracting for services and personal properties piecemeal for the purpose of obtaining prices under [seven hundred and fifty] *one thousand* dollars upon transactions which should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than [seven hundred and fifty] *one thousand* dollars. This provision is intended to make unlawful the practice of evading advertising requirements by making a series of purchases or contracts, each for less than the advertising requirement price, or by making several simultaneous purchases or contracts, each below said price, when, in either case, the transactions involved should have been made as one transaction for one price. Any members of council who so vote in violation of this provision and who know that the transaction upon which they so vote is or ought to be a part of a larger transaction and that it is being divided in order to evade the requirements as to advertising for bids, shall be jointly and severally subject to surcharge for ten per centum of the full amount of the

Section 1902 of the act, reenacted and amended June 28, 1951, P. L. 662, further amended.

contract of purchase. Wherever it shall appear that a member of council may have voted in violation of this section but the purchase or contract on which he so voted was not approved by council, this section shall be inapplicable.

Section 1903 of the act, reenacted and amended June 28, 1951, P. L. 662, and amended September 26, 1951, P. L. 1515, further amended.

Section 3. Section 1903 of the act, reenacted and amended June 28, 1951 (P. L. 662), and amended September 26, 1951 (P. L. 1515), is amended to read:

Section 1903. Contracts for Less *Than [Seven Hundred and Fifty] *One Thousand* Dollars; Written Bids.— In all cases of contracts or purchases, other than the kinds mentioned in clauses (1) to (5) inclusive of section one thousand nine hundred one of this act, from two hundred dollars to [seven hundred and fifty] *one thousand* dollars inclusive, whether made by council or by an officer or appointee of the city, written bids shall be solicited therefor; and no such contract or purchase shall be made for the city except upon at least two such written bids. The specifications upon which bids are solicited shall be uniform in so far as possible to afford equal opportunity for bidding. Catalogues and circulars of firm prices shall be acceptable as bids upon the contracts or purchases herein regulated. All such bids shall be retained in the proper department or office for a period of at least two months, and shall be reported monthly to the director of accounts and finance who shall make a consolidated monthly report thereof to council. The members of council and the controller shall have access to the bids in all departments and offices of the city for the enforcement of this provision. Any official or appointee of the city contracting or purchasing in violation of the provisions of this section shall be liable upon his bond, if any, or personally, in the full amount of the purchase or contract so made, and council may avoid any such purchase or contract.

APPROVED—The 6th day of May, A. D. 1957.

GEORGE M. LEADER

No. 47

AN ACT

Amending the act of March 31, 1949 (P. L. 372), entitled "An act to promote the welfare of the people of the Commonwealth; creating The General State Authority as a body corporate and politic with power to construct, improve, equip, furnish, and operate projects, and to lease the same, and to fix fees, rentals, and charges for the use thereof; authorizing and regulating the issuance of bonds for said Authority, and providing for the

* "Then" in original.