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THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 1833 Session of  
2023

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INTRODUCED BY NEILSON, STRUZZI, GIRAL, MADDEN, HILL-EVANS,  
McNEILL, SANCHEZ, SMITH, PARKER, ZIMMERMAN, KHAN, KENYATTA  
AND T. DAVIS, NOVEMBER 8, 2023

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SENATOR LANGERHOLC, TRANSPORTATION, IN SENATE, AS AMENDED,  
OCTOBER 9, 2024

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AN ACT

1 Amending Title 74 (Transportation) of the Pennsylvania  
2 Consolidated Statutes, in transportation infrastructure,  
3 providing for design build best value.

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

6 Section 1. Title 74 of the Pennsylvania Consolidated  
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 98

9 DESIGN BUILD BEST VALUE

10 Sec.

11 9801. Scope of chapter.

12 9802. Definitions.

13 9803. Design build best value process.

14 9804. Applicability of other laws.

15 9805. Limitation on powers and duties and existing contracts.

16 § 9801. Scope of chapter.

17 This chapter relates to design build best value as an

1 alternative procurement process for highway and bridge design  
2 and construction PROJECTS FOR THE DEPARTMENT OF TRANSPORTATION <--  
3 AND THE PENNSYLVANIA TURNPIKE COMMISSION.

4 § 9802. Definitions.

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

8 "Agency." The Department of Transportation of the  
9 Commonwealth or the Pennsylvania Turnpike Commission.

10 "Alternative technical concept" or "ATC." A proposed  
11 variance from the contractual requirements or request for  
12 proposal that is equal to or better than the requirements in the  
13 request for proposal document.

14 "COMMISSION." THE PENNSYLVANIA TURNPIKE COMMISSION. <--

15 "COMMISSIONERS." THE COMMISSIONERS OF THE PENNSYLVANIA  
16 TURNPIKE COMMISSION.

17 "DEPARTMENT." THE DEPARTMENT OF TRANSPORTATION OF THE  
18 COMMONWEALTH.

19 "Design build best value." The source selection method other  
20 than competitive sealed proposals in 62 Pa.C.S. § 513 (relating  
21 to competitive sealed proposals), as described in section 9803  
22 (relating to design build best value process), which may be used  
23 by the agency acting as the purchasing agency, as an alternative  
24 to competitive sealed ~~bidding~~ PROPOSALS. <--

25 "Offeror." A person ~~or entity~~ that submits a proposal in <--  
26 response to a request for proposals or request for  
27 qualifications.

28 "PROJECT." THE DESIGN OR CONSTRUCTION, OR BOTH, OF A HIGHWAY <--  
29 OR BRIDGE, OR BOTH, BY AN AGENCY.

30 "Request for proposals." All documents, including those

1 either attached or incorporated by reference, used for  
2 soliciting proposals.

3 "Request for qualifications." All documents, including those  
4 either attached or incorporated by reference, used for  
5 soliciting statements of qualifications.

6 "Responsible offeror." An entity that has submitted a  
7 responsive statement of qualifications to a request for  
8 qualifications or responsive proposal to a request for proposals  
9 and that possesses the capability to fully perform the contract  
10 requirements in all respects and the integrity and reliability  
11 to assure good faith performance AS DETERMINED BY AN AGENCY. <--

12 "Responsive proposal." A proposal which conforms in all  
13 material respects to the requirements and criteria in the  
14 request for proposals.

15 "SECRETARY." THE SECRETARY OF TRANSPORTATION OF THE <--  
16 COMMONWEALTH.

17 "Statement of qualifications." An offeror's response to an  
18 agency, after the agency issues a request for qualifications.  
19 § 9803. Design build best value process.

20 (a) General rule.--Notwithstanding any other provision of  
21 law, an agency may use the design build best value source  
22 selection method for construction projects in accordance with <--  
23 this section.

24 (b) Conditions for use.--Design build best value may be used  
25 when a deputy secretary for the Department of Transportation or <--  
26 a contracting officer for the Pennsylvania Turnpike Commission  
27 determines in writing a construction THE SECRETARY, FOR THE <--  
28 DEPARTMENT, OR A MAJORITY OF THE COMMISSIONERS, FOR THE  
29 COMMISSION, DETERMINE THAT A project would benefit from the  
30 design build best value method of procurement due to ONE OR MORE <--

1 OF the following factors:

2 (1) project complexity;

3 (2) potential for innovation;

4 (3) unique equipment or specialized systems;

5 (4) project risks;

6 (5) project schedule; AND <--

7 ~~(6) other project considerations; and~~ <--

8 ~~(7) (6) estimated project value.~~ <--

9 (c) Projects procured per calendar year.-- <--

10 ~~(1) An agency shall~~ THE COMMISSION MAY advertise no more <--

11 than five one-step design build best value procurements per

12 calendar year AND NO MORE THAN 20 TWO-STEP DESIGN BUILD BEST <--

13 VALUE PROCUREMENTS PER CALENDAR YEAR.

14 ~~(2) An agency shall~~ THE DEPARTMENT MAY advertise no more <--

15 than 20 FIVE two-step design build best value procurements <--

16 per calendar year. <--

17 (3) THE DEPARTMENT MAY ONLY ADVERTISE A ONE-STEP DESIGN <--

18 BUILD BEST VALUE PROCUREMENT TO DELIVER A PROJECT IN

19 ACCORDANCE WITH 62 PA.C.S. § 516 (RELATING TO EMERGENCY

20 PROCUREMENT).

21 (d) Public notice of determination for use of design build

22 best value.--The notice of determination under subsection (b) <--

23 shall be posted by the agency for a reasonable time prior to the

24 date the procurement documents are posted on a website regularly

25 accessed by industry partners in consulting and construction.

26 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), THE NOTICE <--

27 OF DETERMINATION UNDER SUBSECTION (B) SHALL BE POSTED BY THE

28 AGENCY FOR A PERIOD OF 30 DAYS PRIOR TO THE DATE THE

29 PROCUREMENT DOCUMENTS ARE POSTED ON THE AGENCY'S PUBLICLY

30 ACCESSIBLE INTERNET WEBSITE AND THE AGENCY'S WEBSITE

1 MAINTAINED TO ADVERTISE PROJECTS.

2 (2) THE SECRETARY, FOR THE DEPARTMENT, OR A MAJORITY OF  
3 THE COMMISSIONERS, FOR THE COMMISSION, AS APPLICABLE, MAY  
4 ELECT A PERIOD OF LESS THAN 30 DAYS FOR A PROJECT THAT IS AN  
5 EMERGENCY PROCUREMENT.

6 (e) Request for proposals.--

7 (1) After the determination under subsection (b) has  
8 been issued, the agency shall solicit proposals through a  
9 request for proposals.

10 (2) ~~The~~ IN ACCORDANCE WITH SUBSECTION (C), THE agency <--  
11 may conduct a one-step or two-step request for proposals,  
12 subject to the following:

13 (i) If the agency conducts a one-step request for  
14 proposals, the agency shall seek a technical and price  
15 proposal in accordance with subsection (i).

16 (ii) If the agency conducts a two-step request for  
17 proposals, the agency shall seek a statement of  
18 qualifications as step one in accordance with subsection  
19 (j) and a technical and price proposal as step two in  
20 accordance with subsection (k).

21 (3) The agency shall include a schedule in a request for  
22 proposal under this chapter that identifies the anticipated  
23 dates for the procurement, including an anticipated final  
24 selection of a best value offeror.

25 (f) Public notice.--Public notice of the one-step or two-  
26 step request for proposals shall be given in the same manner as  
27 provided in 62 Pa.C.S. § 512(c) (relating to competitive sealed  
28 bidding).

29 (g) Submission and receipt of proposals and statements of  
30 qualifications.--Offerors shall submit their statements of

1 qualifications and proposals to ensure that their statements of  
2 qualifications and proposals are received prior to the times and  
3 dates established for the submission of statements for  
4 qualifications and proposals. Statements of qualifications and  
5 proposals shall be submitted in the format required by the  
6 request for qualifications and the request for proposals.  
7 Statements of qualifications and proposals shall be opened so as  
8 to avoid disclosure of their contents to competing offerors.

9 (h) Preproposal conference.--The IN ACCORDANCE WITH <--  
10 SUBSECTION (C), THE agency shall schedule a preproposal  
11 conference after issuing the request for qualifications in a  
12 two-step procurement or the request for proposals in a one-step  
13 procurement, which conference may be held virtually. The agency  
14 shall indicate the date, time and location for a preproposal  
15 conference within the request for qualifications in a two-step  
16 procurement or the request for proposals in a one-step  
17 procurement.

18 (i) Request for technical and price proposals in a one-step  
19 procurement.--

20 ~~(1) If the Department of Transportation seeks to use the~~ <--  
21 ~~one step procurement, the deputy secretary must first approve~~  
22 ~~use of the one step procurement in writing prior to issuance~~  
23 ~~of the request for proposals. If the Pennsylvania Turnpike~~  
24 ~~Commission seeks to use the one step procurement, the~~  
25 ~~contracting officer must first approve use of the one step~~  
26 ~~procurement in writing prior to issuance of the request for~~  
27 ~~proposals.~~

28 ~~(2) The~~ (1) IN ACCORDANCE WITH SUBSECTION (C), THE <--  
29 agency shall issue a formal request for proposals publicly,  
30 which shall include separate proposals for a technical

1 solution, to be known as the technical proposal, and the  
2 proposed price, to be known as the price proposal.

3 ~~(3)~~ (2) After receipt of all technical proposals, the <--  
4 evaluation committee UNDER SUBSECTION (S) shall evaluate each <--  
5 responsive proposal based on the criteria stated in the  
6 request for proposals. The technical and price proposals  
7 shall be evaluated and scored or rated separately. Except for  
8 a responsiveness determination made by a nonvoting member of  
9 the evaluation committee, a price proposal may not be opened  
10 until all technical proposals are scored or rated.

11 ~~(4)~~ (3) In scoring or rating a technical proposal and <--  
12 price proposal, the evaluation committee shall consider the  
13 relative importance of the evaluation factors fixed prior to  
14 the opening of the technical and price proposals, which shall  
15 be stated in the request for proposals. The Department of <--  
16 Transportation shall invite its comptroller to participate in  
17 the evaluation as a nonvoting member of any evaluation  
18 committee.

19 ~~(5)~~ (4) Failure of an offeror to meet the requirements <--  
20 of a request for proposal shall result in the proposal being  
21 deemed nonresponsive.

22 (j) Statement of qualifications and short-list process in a  
23 two-step procurement.--

24 (1) A statement of qualifications received by an agency  
25 from a responsible offeror shall be scored or rated by an  
26 evaluation committee based on the criteria stated in the  
27 request for qualifications.

28 (2) After the statements of qualifications are scored or  
29 rated under paragraph (1), the evaluation committee shall  
30 develop a short list of the number of offerors established in

1 the request for qualifications, which shall MAY identify the <--  
2 responsible offerors eligible to receive a stipend under  
3 subsection (n) (2).

4 (3) The agency shall publicly post a list and rank of <--  
5 all responsible offerors. ON THE AGENCY'S PUBLICLY ACCESSIBLE <--  
6 INTERNET WEBSITE AND THE AGENCY'S WEBSITE MAINTAINED TO  
7 ADVERTISE PROJECTS.

8 (4) A responsible offeror that submitted a statement of  
9 qualifications under the request for qualifications process,  
10 but was not shortlisted by the agency, is ineligible to  
11 receive a stipend after the request for proposals process but  
12 may still submit proposals in response to the request for  
13 proposals IN step two of the procurement under subsection <--  
14 (k).

15 (k) Request for technical and price proposals in a two-step  
16 procurement.--

17 (1) Following the creation of a short list and to the  
18 extent that an agency is satisfied with the number of  
19 responsible offerors, the agency shall issue a formal request  
20 for proposals to all responsible offerors who submitted a  
21 responsive statement of qualifications, which shall include  
22 separate proposals for a technical solution, to be known as  
23 the technical proposal, and the proposed price, to be known  
24 as the price proposal.

25 (2) After receipt of all technical proposals, the  
26 evaluation committee shall evaluate each submission based on  
27 the criteria stated in the request for proposals. The  
28 technical and price proposals shall be evaluated and scored  
29 or rated separately. Except for a responsiveness  
30 determination made by a nonvoting member of the evaluation



1 committee, a price proposal may not be opened until all  
2 technical proposals are scored or rated.

3 (3) In scoring or rating a technical proposal and price  
4 proposal, the evaluation committee shall consider the  
5 relative importance of the evaluation factors fixed prior to  
6 the opening of the technical and price proposals, which shall  
7 be stated in the request for proposals. The Department of <--  
8 Transportation shall invite its comptroller to participate in  
9 the evaluation as a nonvoting member of any evaluation  
10 committee.

11 (4) If the statement of qualifications rating or score  
12 will be included in the final rating or score for the design  
13 build best value two-step procurement, the request for  
14 proposal shall indicate that fact.

15 (1) Alternative technical concepts.--

16 (1) An alternative technical concept, proposed by THE <--  
17 AGENCY OR an offeror, if any, shall be submitted by the  
18 offeror to the agency on or before the due date for ATC  
19 submission established by the request for proposal.

20 (2) The agency shall determine at its sole discretion  
21 whether an ATC is acceptable or approved.

22 (3) The agency may communicate individually with an  
23 offeror regarding its proposed or submitted ATC.

24 (4) Approval of an ATC will constitute a change in the  
25 specific requirements of the contractual requirements or  
26 request for proposal associated with the approved ATC for  
27 that specific offeror. An offeror shall ensure that its  
28 proposal complies with the request for proposal requirements  
29 for the specific offeror, as modified by approval of the ATC.

30 (5) Approval of an ATC in no way implies that the ATC or

1 the proposal will receive a favorable review from the  
2 evaluation committee.

3 (m) Records of requests for alternative technical concepts  
4 and use of intellectual property.--

5 (1) ~~An~~ EXCEPT AS PROVIDED UNDER PARAGRAPH (2), AN ATC <--  
6 shall be confidential unless or until:

7 ~~(i) the submittal does not qualify as an ATC;~~ <--

8 ~~(ii) (I) the ATC is deemed to take advantage of an~~ <--  
9 error or omission OR REVEALS AN AREA OR DISCREPANCY WHERE <--  
10 A CLARIFICATION MAY BE WARRANTED in the request for  
11 proposal or contract documents, which may be subsequently  
12 amended by the purchasing agency in its sole discretion;

13 ~~(iii) (II) cancellation of the procurement without~~ <--  
14 selection of an offeror AND UPON AN EXECUTED AGREEMENT <--  
15 FOR PAYMENT TO AN OFFEROR IN ACCORDANCE WITH SUBSECTION  
16 (N) (2) AND (3);

17 ~~(iv) (III) the effective date of the contract as a~~ <--  
18 result of the procurement OR UPON AN EXECUTED AGREEMENT <--  
19 FOR PAYMENT TO AN UNSUCCESSFUL OFFEROR IN ACCORDANCE WITH  
20 SUBSECTION (N) (2) AND (3); or

21 ~~(v) (IV) such other date as may be prescribed under~~ <--  
22 applicable law, at which time all confidentiality rights,  
23 if any, shall be of no further force and effect except as  
24 otherwise allowed under the applicable law.

25 (2) An unsuccessful offeror's ATC is not a public record  
26 subject to inspection and duplication under the act of  
27 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know  
28 Law, unless the agency enters into an agreement with an  
29 unsuccessful offeror for payment of the ATC.

30 (3) Except to the extent not transferable by law, the

1 agency may use all or a portion of a submitted proposal and  
2 ATC, including the technologies, techniques, methods,  
3 processes and information contained in the proposal or ATC,  
4 with an agreement for payment of the ATC. Notice of  
5 nontransferability by law shall be given to the agency in  
6 response to the request for proposals or submittal of the  
7 ATC.

8 (4) Under no circumstances may the agency be responsible  
9 for or liable to an offeror or ~~other~~ THIRD party as a result <--  
10 of disclosing an offeror's ATC materials.

11 (n) Stipends.--

12 (1) The determination to offer a stipend and its amount <--  
13 UNDER THIS SUBSECTION shall be determined by the agency <--  
14 SECRETARY, FOR THE DEPARTMENT, OR A MAJORITY OF THE <--  
15 COMMISSIONERS, FOR THE COMMISSION on a project-by-project  
16 basis. The determination to offer a stipend and its terms  
17 shall be stated in the request for qualifications or request  
18 for proposals.

19 (2) In a one-step procurement, as stated by the agency  
20 in a request for proposal, the agency may compensate  
21 unsuccessful responsible offerors for a portion of the costs  
22 associated with preparation of a responsive proposal in  
23 response to a request for proposals and for payment of an  
24 ATC.

25 (3) In a two-step procurement, the agency may compensate  
26 unsuccessful shortlisted responsible offerors for a portion  
27 of the costs associated with the preparation of a responsive  
28 proposal in response to a request for proposals and for  
29 payment of an ATC. If a stipend is provided to unsuccessful  
30 shortlisted offerors, the agency may only provide payment if

1 the unsuccessful shortlisted offeror's technical and price  
2 proposals are responsive and the offeror is a responsible  
3 offeror. THE AGENCY MAY ALSO REASONABLY COMPENSATE <--  
4 UNSUCCESSFUL RESPONSIBLE OFFERORS WHO WERE NOT SHORTLISTED  
5 FOR PAYMENT OF AN ATC.

6 (4) AN AGENCY MAY NOT PROVIDE OR AWARD A STIPEND TO AN  
7 UNSUCCESSFUL RESPONSIBLE OFFEROR MORE THAN ONE TIME,  
8 REGARDLESS OF WHETHER A PROJECT IS ADVERTISED UNDER A ONE-  
9 STEP PROCUREMENT OR TWO-STEP PROCUREMENT. THIS PARAGRAPH  
10 SHALL NOT APPLY IF THE AGENCY UTILIZES AN UNSUCCESSFUL  
11 OFFEROR'S ATC.

12 (o) Due dates for technical proposal and price proposal.--

13 (1) An agency may determine that a technical proposal is  
14 due on a date prior to the due date for a price proposal. All  
15 due dates shall be clearly stated by the agency in the  
16 request for proposals.

17 (2) If an agency seeks submission of a technical  
18 proposal prior to submission of the price proposal, the  
19 agency and offeror may not communicate with each other <--  
20 between MAY SEEK CLARIFICATION FROM AN OFFEROR ON the <--  
21 technical proposal due date and price proposal due date,  
22 which includes the prohibition to ask ASKING questions or <--  
23 seek clarifications SEEKING CLARIFICATION regarding a <--  
24 technical proposal.

25 (3) After the technical proposal and price proposal due  
26 dates, an agency may have discussions SEEK CLARIFICATION with <--  
27 responsible offerors for the purpose of clarification. <--  
28 Responsible offerors shall be accorded fair and equal  
29 treatment with respect to any opportunity for discussion TO <--  
30 PROVIDE CLARIFICATION. In conducting discussions A MEETING <--

1 FOR THE PURPOSE OF CLARIFICATION, the agency may not disclose  
2 information derived from proposals submitted by competing  
3 offerors.

4 (p) Selection for negotiation.--The responsible offeror  
5 whose proposal is determined in writing to be the most  
6 advantageous to the agency shall be selected for contract  
7 negotiations necessary to finalize a contract or to clarify any  
8 remaining issue regarding scope, schedule or any other  
9 information provided by the selected best value offeror without  
10 impacting material price and evaluation factors.

11 (q) Incorporation of an unsuccessful offeror's ATC.--The <--  
12 agency may incorporate an unsuccessful offeror's ATC into the  
13 agreement as a result of the procurement and, if the agency  
14 chooses to do so, a change order must be executed. UPON AN <--  
15 EXECUTED AGREEMENT FOR PAYMENT TO AN UNSUCCESSFUL OFFEROR IN  
16 ACCORDANCE WITH SUBSECTION (N) (2) AND (3), THE AGENCY MAY  
17 UTILIZE AN UNSUCCESSFUL OFFEROR'S ATC. IF THE AGENCY CHOOSES TO  
18 INCORPORATE THE ATC INTO THE CONTRACT EXECUTED AS A RESULT OF  
19 THE SUBJECT PROCUREMENT, THE AGENCY AND CONTRACTOR SHALL EXECUTE  
20 A CHANGE ORDER.

21 (r) Proposal validity period.--The request for proposal  
22 shall state the validity period for the proposal, unless  
23 extended by the parties' mutual consent MUTUAL CONSENT OF THE <--  
24 AGENCY AND OFFERORS.

25 (s) Evaluation committee.--Notwithstanding any other <--  
26 provisions of this chapter, an evaluation committee under this  
27 chapter shall consist of at least five individuals as determined  
28 by the agency. An individual who has been employed by an offeror  
29 within the preceding two years may not participate in the  
30 evaluation of any proposals submitted by that offeror.

<--

1           (1) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS  
2           CHAPTER, AN EVALUATION COMMITTEE UNDER THIS CHAPTER SHALL  
3           CONSIST OF AT LEAST FIVE EMPLOYEES AS DETERMINED BY THE  
4           AGENCY. AN INDIVIDUAL WHO HAS BEEN EMPLOYED BY AN OFFEROR  
5           WITHIN THE PRECEDING FIVE YEARS MAY NOT PARTICIPATE IN THE  
6           EVALUATION OF ANY PROPOSALS SUBMITTED BY THAT OFFEROR. THE  
7           COMPTROLLER FOR THE DEPARTMENT SHALL PARTICIPATE IN THE  
8           EVALUATION AS A NONVOTING MEMBER FOR THE DEPARTMENT'S  
9           EVALUATION COMMITTEE.

10           (2) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO  
11           PROHIBIT AN EMPLOYEE OF THE DEPARTMENT TO PARTICIPATE ON AN  
12           EVALUATION COMMITTEE FOR THE COMMISSION OR AN EMPLOYEE OF THE  
13           COMMISSION TO PARTICIPATE ON A EVALUATION COMMITTEE FOR THE  
14           DEPARTMENT.

15 § 9804. Applicability of other laws.

16           (a) General rule.--Except as provided under subsection (b), <--  
17           laws LAWS related to the development DESIGN, construction, <--  
18           operation or financing of a project in effect on the date the  
19           agreement is fully executed shall apply to the agreement between  
20           the agency and contractor. The provisions shall ALSO include: <--

21           (1) The act of May 1, 1913 (P.L.155, No.104), referred  
22           to as the Separations Act.

23           (2) The act of August 15, 1961 (P.L.987, No.442), known  
24           as the Pennsylvania Prevailing Wage Act.

25           (b) Procurement Code. Only the following provisions of 62 <--  
26           Pa.C.S. (relating to procurement) shall apply to this chapter:

27           (1) Section 107 (relating to reciprocal  
28           limitations).

29           (2) Section 521 (relating to cancellation of  
30           invitations for bids or requests for proposals).

- 1           ~~(3) Section 531 (relating to debarment or~~  
2 ~~suspension).~~
- 3           ~~(4) Section 541 (relating to approval of accounting~~  
4 ~~system).~~
- 5           ~~(5) Section 551 (relating to right to inspect~~  
6 ~~plant).~~
- 7           ~~(6) Section 552 (relating to right to audit~~  
8 ~~records).~~
- 9           ~~(7) Section 562 (relating to anticompetitive~~  
10 ~~practices).~~
- 11           ~~(8) Section 563 (relating to retention of~~  
12 ~~procurement records).~~
- 13           ~~(9) Section 902 (relating to bid or proposal~~  
14 ~~security).~~
- 15           ~~(10) Section 903 (relating to contract performance~~  
16 ~~security and payment bonds).~~
- 17           ~~(11) Chapter 17 (relating to legal and contractual~~  
18 ~~remedies).~~
- 19           ~~(12) Chapter 23 (relating to ethics in public~~  
20 ~~contracting).~~
- 21           ~~(13) Section 3921 (relating to retainage).~~
- 22           ~~(14) Section 3922 (relating to payment of retainage~~  
23 ~~to subcontractors).~~
- 24           ~~(15) Section 3931 (relating to performance by~~  
25 ~~contractor or subcontractor).~~
- 26           ~~(16) Section 3932 (relating to government agency's~~  
27 ~~progress payment obligations).~~
- 28           ~~(17) Section 3933 (relating to contractors' and~~  
29 ~~subcontractors' payment obligations).~~
- 30           ~~(18) Section 3934 (relating to withholding of~~

1 ~~payment for good faith claims).~~

2 ~~(19) Section 3935 (relating to penalty and attorney~~  
3 ~~fees).~~

4 ~~(20) Section 3936 (relating to contracts involving~~  
5 ~~Federal aid).~~

6 ~~(21) Section 3937 (relating to certain provisions~~  
7 ~~unenforceable).~~

8 ~~(22) Section 3938 (relating to applicability).~~

9 ~~(23) Section 3939 (relating to claims by innocent~~  
10 ~~parties).~~

11 ~~(24) Section 3941 (relating to substantial/final~~  
12 ~~payment under contract).~~

13 ~~(25) Section 3942 (relating to arbitration).~~

14 (B) PROCUREMENT CODE.--THE PROVISIONS OF 62 PA.C.S. <--  
15 (RELATING TO PROCUREMENT) SHALL GOVERN THIS CHAPTER, EXCEPT  
16 THOSE PROVISIONS EXPRESSLY SUPERSEDED BY THIS CHAPTER.  
17 § 9805. Limitation on powers and duties and existing contracts.

18 (a) General rule.--The powers and duties of an agency under  
19 this chapter may not be exercised beginning eight years after  
20 the effective date of this section.

21 (b) Exception.--Notwithstanding subsection (a), all  
22 contracts procured by use of this chapter, which are fully  
23 executed prior to eight years after the effective date of this  
24 section, shall remain in full force and effect, unless  
25 terminated in accordance with the terms of the contract.

26 Section 2. This act shall take effect immediately.