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"Transient." An individual who obtains accommodation in a hotel by means of registering at the facility for the temporary occupancy of a room for the personal use of the individual by paying a fee to the operator.
(1770.7 amended July 12, 2012, P.L.1182, No.142)

Section 1770.9. Assessment of Signs and Sign Structures.—(1770.9 repealed Oct. 27, 2010, P.L.895, No.93)

Compiler's Note: Section 7(2) of Act 93 of 2010 provided that all activities initiated under section 1770.9 shall continue and shall remain in full force and effect until revoked, vacated or modified under the Consolidated County Assessment Law (53 Pa.C.S. Ch.88).

Compiler's Note: Section 1770.9 was added to the County Code by Act 142 of 2006. Section 6 of Act 142 provides that the section is to apply retroactively to real property assessments for taxes levied and collected for fiscal periods of political subdivisions beginning on or after January 1, 2005, and section 4 prohibits the amendment from being interpreted either as authorizing, ratifying, or affirming any assessment of signs or sign structures as real property, or as creating an implication that The General County Assessment Law, the act of May 22, 1933 (P.L.853, No.155), should not be applied uniformly.

ARTICLE XVIII CONTRACTS

Section 1801. Commissioners Sole Contractors for County.—(a) The county commissioners shall contract for and purchase all services referred to in section five hundred eight and personal property for county officers and agencies. All contracts and purchases not in excess of the base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under subsection (b.1), shall be by note or memorandum, in writing, signed by the county commissioners, or their designee. A copy of all such notes and memorandums and all written contracts shall be filed in the office of the controller, if any, and, if not, then with the chief clerk of the commissioners.

(b) Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested for all contracts in excess of the base amount of ten thousand dollars (\$10,000), subject to adjustment under subsection (b.1), but are less than the amount requiring advertisement and competitive bidding or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the contractor and the contractor's representative, the construction, reconstruction, repair, maintenance or work which was the subject of the quotation and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.

(b.1) Adjustments to the base amounts specified under subsections (a) and (b) shall be made as follows:

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(1) The Department of Labor and Industry shall determine the percentage change in the Consumer Price Index for All Urban Consumers: All Items (CPI-U) for the United States City Average as published by the United States Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending September 30, 2012, and for each successive twelve-month period thereafter.

(2) If the department determines that there is no positive percentage change, then no adjustment to the base amounts shall occur for the relevant time period provided for in this subsection.

(3) (i) If the department determines that there is a positive percentage change in the first year that the determination is made under paragraph (1), the positive percentage change shall be multiplied by each base amount, and the products shall be added to the base amounts, respectively, and the sums shall be preliminary adjusted amounts.

(ii) The preliminary adjusted amounts shall be rounded to the nearest one hundred dollars (\$100) to determine the final adjusted base amounts for purposes of subsections (a) and (b).

(4) In each successive year in which there is a positive percentage change in the CPI-U for the United States City Average, the positive percentage change shall be multiplied by the most recent preliminary adjusted amounts, and the products shall be added to the preliminary adjusted amount of the prior year to calculate the preliminary adjusted amounts for the current year. The sums thereof shall be rounded to the nearest one hundred dollars (\$100) to determine the new final adjusted base amounts for purposes of subsections (a) and (b).

(5) The determinations and adjustments required under this subsection shall be made in the period between October 1 and November 15 of the year following the effective date of this subsection and annually between October 1 and November 15 of each year thereafter.

(6) The final adjusted base amounts and new final adjusted base amounts obtained under paragraphs (3) and (4) shall become effective January 1 for the calendar year following the year in which the determination required under paragraph (1) is made.

(7) The department shall publish notice in the Pennsylvania Bulletin prior to January 1 of each calendar year of the annual percentage change determined under paragraph (1) and the unadjusted or final adjusted base amounts determined under paragraphs (3) and (4) at which competitive bidding is required under subsection (a) and written or telephonic price quotations are required under subsection (b), respectively, for the calendar year beginning the first day of January after publication of the notice. The notice shall include a written and illustrative explanation of the calculations performed by the department in establishing the unadjusted or final adjusted base amounts under this subsection for the ensuing calendar year.

(8) The annual increase in the preliminary adjusted base amounts obtained under paragraphs (3) and (4) shall not exceed three per centum.

(c) The commissioners shall, where possible, anticipate the needs of the various officers, agencies and operations of the county and endeavor to

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purchase in wholesale quantities, where practicable and where savings could be achieved thereby. The commissioners may make contracts and purchases for all purposes expressly or impliedly authorized by law.

(1801 amended Nov. 3, 2011, P.L.349, No.86)

Compiler's Note: Section 3 of Act 86 of 2011, which amended section 1801, provided that Act 86 shall apply to contracts and purchases advertised on or after January 1 of the year following the effective date of section 3.

Section 1802. Contract Procedures; Terms and Bonds; Advertising for Bids.—(a) All contracts for services and personal property where the base amount thereof exceeds the sum of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 1801(b.1), shall be written and shall, except as otherwise hereinafter specified, be made by advertising for bids. ((a) amended Nov. 3, 2011, P.L.349, No.86)

(b) Contracts or purchases in excess of the base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 1801(b.1), except those hereinafter mentioned and except as provided by the act of October 27, 1979 (P.L.241, No.78), entitled "An act authorizing political subdivisions, municipality authorities and transportation authorities to enter into contracts for the purchase of goods and the sale of real and personal property where no bids are received," shall not be made except with and from the lowest responsible and responsive bidder submitting a bid in conformity with the specifications approved by the board of commissioners for the contract or purchase, after due notice in one newspaper of general circulation, published or circulating in the county, at least two times at intervals of not less than three days where daily newspapers of general circulation are employed for such publication, or in case weekly newspapers are employed then the notice shall be published once a week for two successive weeks. The first advertisement shall be published not less than ten days prior to the date fixed for the opening of bids. The requirements of this subsection need not be followed in cases of emergency, but in such cases the actual emergency shall be declared and stated by resolution of the commissioners. ((b) amended Nov. 3, 2011, P.L.349, No.86)

(c) All bids shall be received by the controller, or if there be no controller, then by the chief clerk of the county commissioners, in sealed envelopes. Bids shall be opened publicly at a time and place specified in the advertisement for bids, in the presence of the controller, or chief clerk as the case may be, by the commissioners or their designee. The controller, or the chief clerk as the case may be, shall keep a record of all such bids and awards, and the controller shall certify no checks for contracts not made agreeably thereto.

(d) The amount or price of the contract shall, in all cases whether of straight sale price, conditional sale, lease, lease purchase or otherwise, be the entire amount which the county pays to the successful bidder, or his assigns, less the value of personal property transferred from the county to the bidder, or his assigns, at any time during the duration of the contract, in order to obtain the services or property, or both, and shall not be construed to mean

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only the amount which is paid to acquire title, or to receive any other particular benefit or benefits of the whole bargain. The value of personal property transferred to the bidder or his assigns upon execution of the contract shall be specified in the bid. The method of determining the value of personal property transferred to the bidder or his assigns at a time during the duration of the contract shall be specified in the bid and shall be determined using generally accepted valuation methods.

(e) The acceptance of bids by advertising required herein shall be made by the commissioners and shall only be made by public announcement at the meeting at which bids are opened, or at a subsequent meeting, the time and place of which shall be publicly announced when bids are so opened. If for any reason the award is not made at either of the above meetings, the same business may be transacted at any subsequent meeting, the time and place of which shall have been announced at the previous meeting held for such award. The contract shall be awarded, or all bids shall be rejected, within thirty days of the opening of the bids, except for bids subject to 62 Pa.C.S. (relating to procurement). Thirty-day extensions of the date for the award may be made by the mutual written consent of the commissioners and any bidder who wishes to remain under consideration for award. The commissioners shall excuse from consideration any bidder not wishing to agree to a request for extension of the date for the award and shall release such bidder from any bid bond or similar bid security furnished under subsection (f). All contracts shall be filed with the controller, or with the chief clerk as the case may be, immediately after their execution.

(f) The commissioners may require that any bids advertised be accompanied by cash, by a certified check, cashier's check, bank good faith check or other irrevocable letter of credit in a reasonable amount drawn upon a bank authorized to do business in this Commonwealth or by a bond with corporate surety in a reasonable amount. Whenever it is required that a bid be accompanied by cash, certified check, cashier's check, bank good faith check or other irrevocable letter of credit or bond, no bid shall be considered unless so accompanied. In the event any bidder shall, upon award of the contract to him, fail to comply with the requirements hereinafter stated as to security guaranteeing the performance of the contract, the security furnished under this subsection shall be forfeited to the county as liquidated damages.

(g) The successful bidder, when a formal bid is required herein, may be required to furnish a bond or irrevocable letter of credit or other security in an amount sufficient to the commissioners guaranteeing performance of the contract within thirty days after the contract has been awarded, unless the commissioners shall prescribe a shorter period. The successful bidder for a contract which involves the construction, erection, installation, completion, alteration, repair of or addition to any public work or improvement of any kind shall furnish security as provided in section 2318 of this act. Performance security for services and contracts for labor and materials delivered on a periodic basis, including, but not limited to, food service contracts, home health services and janitorial services and supplies, may be computed on the expected average value for one or more months at the

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discretion of the commissioners. Upon failure to furnish such security within the time fixed, the previous awards shall be void. Deliveries, performances and guarantees may be required in all cases of expenditures, including the exceptions herein.

(h) The contracts or purchases made by the commissioners which shall not require advertising, bidding or price quotations, as hereinbefore provided, are as follows:

(1) Those for maintenance, repairs or replacements for water, electric light, or other public works of the county where they do not constitute new additions, extensions or enlargements of existing facilities and equipment. Security may be required by the commissioners as in other cases for work done.

(2) Those made for improvements, repairs and maintenance of any kind, made or provided by the county through its own employes. 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 the commissioners, 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 and electricity, natural gas or telecommunication services, provided that, in the case of utilities not under tariff with the Pennsylvania Public Utility Commission, contracts made without advertising and bidding shall be made only after receiving written or telephonic price quotations in accordance with the procedures specified in section 1801(b) of this article.

(5) Those involving services of members of the medical or legal profession, registered architects, engineers, certified public accountants or other personal services involving professional expertise.

(6) Those involving contracts entered into by nonprofit cooperative hospital service associations for hospitals and nursing homes which are part of the institutional district or which are owned by the county, operated by the county or affiliated with the county by the purchasing of, or participating in contracts for, materials, supplies and equipment.

(7) Those made with any public body, including, but not limited to, the sale, lease or loan of any supplies or materials to the county by a public body, provided that the price thereof shall not be in excess of that fixed by the public body. The requirements of 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation) shall not apply when a county purchases cooperatively with another public body which has entered into a contract for supplies or materials. As used in this paragraph, "public body" shall mean any of the following:

- (i) the Federal Government;
- (ii) the Commonwealth of Pennsylvania;
- (iii) any other state;
- (iv) a political subdivision, local or municipal authority or other similar local entity of the Commonwealth or any other state; or
- (v) an agency of the Federal Government, the Commonwealth or any other state.

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- (8) Those exclusively involving construction management services.
- (9) Those involving computer software.

(i) Notwithstanding the provisions of this article to the contrary, the county commissioners shall have authority to enter into contracts for equipment and services related to technology and information systems on the basis of best value procurement. Contracts under best value procurement shall be made only after the county has solicited proposals based on performance and outcome specifications developed by the county and describing at minimum the objectives to be met by the system, the tasks to be performed by the system, the users of the system, system security issues, the time frame for system implementation, potential operating technologies, compatibility with existing systems, training and maintenance and shall indicate the process by which the contract shall be awarded. Best value procurement shall not require a sealed bid process and shall permit the commissioners to negotiate the terms of the agreement with any responsive and responsible vendor.

(j) Every contract subject to this article shall comply, as applicable, with the provisions of the act of March 3, 1978 (P.L.6, No.3), known as the "Steel Products Procurement Act," the act of October 28, 1983 (P.L.176, No.45), known as the "Antibid-Rigging Act," the act of December 20, 1967 (P.L.869, No.385), known as the "Public Works Contractors' Bond Law of 1967," the act of August 15, 1961 (P.L.987, No.442), known as the "Pennsylvania Prevailing Wage Act," the act of November 26, 1978 (P.L.1309, No.317), known as the "Public Works Contract Regulation Law," the act of February 17, 1994 (P.L.73, No.7), known as the "Contractor and Subcontractor Payment Act," the act of January 23, 1974 (P.L.9, No.4), referred to as the Public Contract Bid Withdrawal Law, and the act of April 4, 1984 (P.L.193, No.40), known as the "Motor Vehicle Procurement Act."

(1802 amended Dec. 22, 2000, P.L.1019, No.142)

Compiler's Note: Section 3 of Act 86 of 2011, which amended subsecs.

(a) and (b), provided that Act 86 shall apply to contracts and purchases advertised on or after January 1 of the year following the effective date of section 3.

Section 1803. Evasion of Advertising Requirements.—(a) No commissioner or commissioners shall evade the provisions of section one thousand eight hundred two of this act, as to advertising for bids or purchasing or contracting for services and personal properties piece-meal, for the purpose of obtaining prices under the base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 1801(b.1), upon transactions which should in the exercise of reasonable discretion and prudence be conducted as one transaction amounting to more than the base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 1801(b.1). 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 transaction involved should