
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2481 Session of
2022

INTRODUCED BY GROVE, STAMBAUGH, KAUFFMAN, MILLARD, RYAN,
PICKETT, HAMM, SMITH, SAYLOR, COX AND MOUL, APRIL 4, 2022

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 4, 2022

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, providing for sanction-free procurement.

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

5 Section 1. Title 62 of the Pennsylvania Consolidated
6 Statutes is amended by adding a chapter to read:

7 CHAPTER 35A

8 SANCTION-FREE PROCUREMENT

9 Sec.

10 35A01. Definitions.

11 35A02. Engaging in investment activities.

12 35A03. List of persons engaged in investment activities.

13 35A04. Certification.

14 35A05. Penalties for false certification.

15 35A06. Exceptions.

16 § 35A01. Definitions.

17 The following words and phrases when used in this chapter

18 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Department." The Department of General Services of the
3 Commonwealth.

4 "Financial institution." The term as defined in section 14
5 of the Iran Sanctions Act of 1996 (Public Law 104-172, 50 U.S.C.
6 § 1701).

7 "Person." An individual, organization, financial
8 institution, sole proprietorship, association, corporation,
9 partnership, joint venture, limited partnership, limited
10 liability partnership, limited liability company or other entity
11 or business association that exists for the purpose of making a
12 profit, or government entity that includes a multilateral
13 development institution as defined in section 1701 of the
14 International Financial Institutions Act (Public Law 95-118, 22
15 U.S.C. § 262r).

16 "Prohibited state." A nation state, a government or an
17 agency or instrumentality of a nation state that appears on the
18 United States list of State Sponsors of Terrorism or the United
19 States Economic Sanctions Programs list.
20 § 35A02. Engaging in investment activities.

21 A person or financial institution engages in an investment
22 activity by doing any of the following:

23 (1) Providing goods or services worth \$20,000,000 to a
24 prohibited state.

25 (2) Extending at least \$20,000,000 in credit to a person
26 for 45 days or more if all of the following apply:

27 (i) The person uses the credit to provide goods or
28 services to a prohibited state.

29 (ii) The person is, at the time the financial
30 institution or person extends credit, identified on a

1 list created under section 35A03 (relating to list of
2 persons engaged in investment activities).

3 § 35A03. List of persons engaged in investment activities.

4 (a) List.--The department shall develop a list of persons
5 that the department determines are engaged in investment
6 activities in a prohibited state as described under section
7 35A02 (relating to engaging in investment activities). The
8 department shall make its determination based on publicly
9 available, credible information. The department shall update the
10 list every 180 days. Ninety days prior to adding a person to the
11 list, the department shall do all of the following:

12 (1) Provide notice to the person of the department's
13 intention to add the person to the list. The notice shall
14 inform the person that inclusion on the list makes the person
15 ineligible to enter into a contract with a Commonwealth
16 entity for goods or services worth at least \$1,000,000. The
17 notice shall specify that if the person ceases to engage in
18 investment activities in a prohibited state, the person may
19 regain eligibility upon removal from the list.

20 (2) Provide the person an opportunity to comment in
21 writing to the department. The person shall maintain
22 eligibility if the person demonstrates no engagement in
23 investment activities in a prohibited state.

24 (b) Ineligibility of persons on list.--A person identified
25 on a list under subsection (a) shall be ineligible to enter into
26 a contract with a Commonwealth entity to provide for goods or
27 services worth at least \$1,000,000.

28 (c) Provision of list.--The department shall post the list
29 on its publicly accessible Internet website. Upon request, the
30 department shall provide the list free of charge to the General

1 Assembly or a public entity.

2 (d) Investment service contracts.--Service contracts entered
3 into by Commonwealth entities for the management and investment
4 of a fund for which there is a fiduciary responsibility and for
5 which compliance with the act of July 2, 2010 (P.L.266, No.44),
6 known as the Protecting Pennsylvania's Investments Act, is
7 required shall be exempt from the provisions of this chapter.

8 (e) Exception.--On a case-by-case basis, the department may
9 permit a person engaging in investment activities in a
10 prohibited state to enter into a contract with a Commonwealth
11 entity for goods or services worth at least \$1,000,000 if any of
12 the following apply:

13 (1) The investment activities in the prohibited state
14 were made before and were not expanded after July 1, 2015.

15 (2) The person refrains from entering into new
16 agreements to engage in any future investment activities in a
17 prohibited state.

18 (3) The department determines that the Commonwealth
19 entity has no other cost-effective method of obtaining the
20 goods or services than entering into a contract with the
21 person.

22 § 35A04. Certification.

23 (a) General rule.--The department shall make available a
24 certification form indicating that a person is not on the list
25 under section 35A03(a) (relating to list of persons engaged in
26 investment activities) and is eligible under this chapter to
27 contract with the Commonwealth. Prior to entering into a
28 contract with a Commonwealth entity, a person shall provide a
29 certification form to the Commonwealth entity unless the person
30 is exempt under section 35A03(e).

1 (b) Right to cure.--The following shall apply:

2 (1) If the department determines, using credible
3 information available to the public, that a person has
4 submitted a false certification under subsection (a), the
5 person shall be provided with written notice and an
6 opportunity to demonstrate to the department that the person
7 has ceased its engagement in investment activities in a
8 prohibited state within 90 days of the notice.

9 (2) A person that reasonably demonstrates to the
10 department that the person has ceased its engagement in
11 investment activities in a prohibited state within 90 days
12 after the written notice shall not be subject to the
13 penalties under section 35A05 (relating to penalties for
14 false certification).

15 § 35A05. Penalties for false certification.

16 (a) Penalties.--Subject to the provisions of section
17 35A04(b) (relating to certification), if the department
18 determines that a person has provided a false certification form
19 to a Commonwealth entity under section 35A04, the person shall
20 be subject to the following:

21 (1) A civil penalty in the amount of \$250,000, or twice
22 the amount of the contract, whichever is greater. Only one
23 civil penalty may be imposed upon a person per investment.

24 (2) Suspension of the existing contract with the
25 Commonwealth entity for a period of three years from the date
26 of the determination that the person submitted the false
27 certification. Following the three-year suspension period,
28 the Commonwealth entity or the department may terminate the
29 contract.

30 (b) Report of false certification.--The department shall

1 report to the Attorney General the name of the person that
2 submitted the false certification and the pertinent information
3 that led to the department's determination. No later than three
4 years after the department makes a determination under
5 subsection (a), the Attorney General shall determine whether to
6 bring a civil action against the person to collect the penalty
7 described in subsection (a). If a court determines the person
8 submitted a false certification, the person shall pay all
9 reasonable costs and fees incurred in the civil action.
10 Reasonable costs shall include the reasonable costs incurred by
11 the Commonwealth entity in investigating the authenticity of the
12 certification. Only one civil action against the person may be
13 brought for a false certification on a contract.

14 (c) No private right of action.--Nothing in this section may
15 be construed to create or authorize a private right of action.
16 § 35A06. Exceptions.

17 The department shall have no obligations under this chapter
18 with respect to a person engaged in investment activities in a
19 prohibited state upon the occurrence of any of the following:

20 (1) The prohibited state does not appear on the United
21 States list of State Sponsors of Terrorism.

22 (2) The prohibited state does not appear on the United
23 States Economic Sanctions Programs list.

24 (3) The President or Congress of the United States,
25 through legislation or executive order, declares that
26 mandatory divestment of the type provided for in this chapter
27 interferes with the conduct of United States foreign policy.

28 Section 2. This act shall take effect in 60 days.