



PHILADELPHIA'S ECONOMIC DEVELOPMENT CORPORATION SINCE 1958

October 15, 2013

The Honorable Lloyd K. Smucker
Chair
Senate Committee on State Government
Senate Box 203013
Harrisburg, PA 17120-3013

The Honorable Matt Smith
Minority Chair
Senate Committee on State Government
Senate Box 203037
Harrisburg, PA 17120-3037

Re: **Senate Bill 444 - Right-to-Know Amendment.**

Dear Senators Smucker and Smith,

I am writing to you regarding this pending legislation amending the Pennsylvania Right-To-Know Law. Two issues raised by this bill and pending legislation in the House (HB 61) could have a very negative impact on our efforts to grow the economy of the City and the State.

In our dealings with the private sector, we often enter into ongoing development or construction contracts through the Industrial Development Authority we manage, the Philadelphia Authority for Industrial Development (PAID). Under Section 506(d)(1), as currently in effect, PAID's agreements with those developers and contractors are subject to the Right-To-Know-Law, as are those subcontracts that are performed on PAID's behalf for work that PAID would otherwise be responsible to perform as a governmental authority.

However, the proposed language of Section 506(d) in Senate Bill 444 would require that "...any public records of the agency relating to the contract" be made available. We believe that this language is vague and overbroad.

As an example of how this language could be interpreted, take the case of PAID selling or leasing land to a private company to develop a factory. We agree that the agreement of sale or the lease agreement between PAID and the company is a public

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record under the Right-To-Know-Law. However, the proposed language could be interpreted to mean that in this instance where PAID sells or leases land to a private company to develop a factory, then not just the agreement of sale or lease would be made public, but also all of the company's contracts to develop, manage and operate the property could be subject to public disclosure merely because these contracts "relate" to the agreement of sale or the lease.

We do not believe that the legislature intends to have private companies make their contracts with other private companies public merely because they have been assisted by an economic or industrial development authority. We believe that this would have a negative effect on the Commonwealth's economic or industrial development authorities' public mission to create jobs and development in Pennsylvania. Section 506 (d)(1) should be drafted in a manner that balances the needs of government transparency with the confidential nature of private businesses. We are attaching language that we think clarifies this.

We are also concerned that the extension of the law to include an 'economic development authority' and an 'industrial development authority' could be further extended through amendments to this bill or the House bill to include private, non-profit economic development corporations such as PIDC. We believe that economic and industrial development authorities are already included under the definition of agency, as they are governmental authorities created under statute.

PIDC and other economic development corporations around the Commonwealth can only function if the private companies applying to us for private funding know that their discussions, correspondence and agreements will be kept confidential. If these clients cannot be assured of their privacy, they will be unlikely to seek the private resources available through us and our sister agencies. And, without these resources, they may not move to or expand in Pennsylvania.

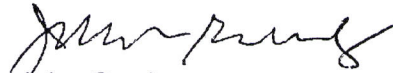
We support the concept of governmental transparency and the right of citizens to have access to public records. In our management of PAID, we fully comply with the existing law. However, we oppose any language which could be interpreted to extend access to the records and contracts of transactions between private businesses.

We would respectfully request that your consideration of the attached language for Section 506(d)(1) and that any future attempts to extend the law to private, non-profit corporations such as PIDC be rejected.

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Thank you for your consideration and strong support for private investment throughout the region and across the Commonwealth. I would be happy to meet with you or your staff to discuss this issue in more detail.

Sincerely,


John Grady
President

cc: M. Walter D'Alessio, Chairman, PIDC
Rob Wonderling, Vice Chairman, PIDC
Thomas Queenan, Chairman, PAID

(d) Agency possession.--

(1) [A public record that is not in the possession of an agency but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the agency, and which directly relates to the governmental function and is not exempt under this act, shall be considered a public record of the agency for purposes of this act.] A contract to which an agency is a party shall be considered a public record of the agency for purposes of this act, to the extent the contract is not exempt under this act, and the records in the possession of the agency expressly making reference to, referenced in, or generated because of the contract shall be considered public records of the agency for purposes of this act, to the extent they are not exempt under this act. A record not in the possession of an agency shall not be considered a public record of the agency for purposes of this act.