

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 162 Session of
2009

INTRODUCED BY TOMLINSON, PILEGGI, SCARNATI, BAKER, ROBBINS,
RAFFERTY, BRUBAKER, FONTANA, TARTAGLIONE, VOGEL, FERLO,
BROWNE, WAUGH, WONDERLING, ALLOWAY, ERICKSON, GREENLEAF,
STACK, COSTA, ORIE, BOSCOLA, LOGAN, WOZNIAK, MUSTO, WARD,
D. WHITE, WASHINGTON AND WILLIAMS, FEBRUARY 2, 2009

AS AMENDED ON THIRD CONSIDERATION, SEPTEMBER 28, 2010

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, providing for contracting with veteran-owned small
3 businesses; and imposing duties on the Department of General
4 Services and other Commonwealth purchasing agencies.

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

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

9 CHAPTER 22

10 VETERAN-OWNED SMALL BUSINESSES

11 Sec.

12 2201. Definitions.

13 2202. Regulations.

14 2203. Veteran-owned small business participation goals.

15 2204. Duties of department.

16 2205. Bonding and progress payments.

17 2206. (Reserved).

1 2207. Report to standing committees.

2 2208. Compliance with Federal requirements.

3 § 2201. Definitions.

4 Subject to section 2202 (relating to regulations), the
5 following words and phrases when used in this chapter shall have
6 the meanings given to them in this section unless the context
7 clearly indicates otherwise:

8 "Active service." Full-time military duty, other than active
9 duty for training, as a member of the United States Army, Air
10 Force, Navy, Marine Corps or Coast Guard, or their reserve
11 components or the National Guard. The term includes full-time
12 service for more than 30 consecutive days performing active
13 State duty for emergencies as a member of the Pennsylvania
14 National Guard.

15 "Purchasing agency." A Commonwealth agency authorized by law
16 to enter into contracts for itself or as the agent of another
17 Commonwealth agency.

18 "Veteran." An individual who performed active service in the
19 armed forces of the United States, including the reserve
20 components and the National Guard, who was discharged from the
21 active service under honorable conditions and who is domiciled
22 in this Commonwealth.

23 "Veteran-owned small business." A business having 100 or
24 fewer full-time employees and not less than 51% of which is
25 owned by one or more veterans, or in the case of any publicly
26 owned business, not less than 51% of the stock of which is owned
27 by one or more veterans, and the management and daily business
28 operations of which are controlled by one or more veterans.

29 "Veteran work force utilization business." A business
30 identified by the department as one which develops and

implements special processes and procedures for recruiting,
retaining, training or developing veteran employees and whose
work force is no less than 10% veterans.

§ 2202. Regulations.

The department shall establish policy in accordance with this
chapter for executive agencies and those independent agencies
for which the department acts as purchasing agency and may
promulgate regulations establishing detailed definitions of the
words and phrases defined in section 2201 (relating to
definitions) using, in addition to the criteria set forth in
section 2201, other criteria as it deems appropriate. State-
affiliated entities shall implement the policy for their
procurement programs.

§ 2203. Veteran-owned small business participation goals.

Each purchasing agency shall have an annual goal of not less
than 5% participation by veteran-owned small businesses in all
contracts entered into by the purchasing agency. The
participation goal shall apply to the overall dollar amount
expended by the purchasing agency with respect to the contracts.

§ 2204. Duties of department.

The department shall have the following duties:

(1) Where feasible, provide appropriate staff who shall
be responsible to the department and who shall serve within
designated Commonwealth agencies to assist veteran-owned
small businesses in this Commonwealth in learning how to do
business with Commonwealth agencies.

(2) Give special publicity to procurement procedures and
issue special publications designed to assist veteran-owned
small businesses in learning how to do business with
Commonwealth agencies.

1 (3) Compile, maintain and make available source lists of
2 veteran-owned small businesses for the purpose of encouraging
3 procurement from veteran-owned small businesses.

4 (4) Include veteran-owned small businesses on
5 solicitation mailing lists.

6 (5) Assure that veteran-owned small businesses are
7 solicited on each procurement for which the businesses may be
8 suited.

9 (6) Develop special training programs to assist veteran-
10 owned small businesses in learning how to do business with
11 Commonwealth agencies.

12 (7) Assure that participation by veteran-owned small
13 businesses is appropriately factored into the evaluation of
14 proposals for supplies, services or construction when a
15 purchasing agency uses the competitive sealed proposals
16 method under section 513 (relating to competitive sealed
17 proposals).

18 (8) Certify businesses that have been identified as
19 veteran work force utilization businesses.

20 § 2205. Bonding and progress payments.

21 (a) Bonding.--Notwithstanding other provisions of this part:

22 (1) Except as provided in paragraph (2), a purchasing
23 agency may reduce the level or change the types of bonding
24 normally required or accept alternative forms of security to
25 the extent reasonably necessary to encourage procurement from
26 veteran-owned small businesses.

27 (2) For contracts under \$100,000, veteran-owned small
28 businesses shall be exempt from the bonding requirements of
29 this part.

30 (b) Progress payments.--A purchasing agency may make special

provisions for progress payments as it deems reasonably
necessary to encourage procurement from veteran-owned small
businesses.

§ 2206. (Reserved).

§ 2207. Report to standing committees.

Each purchasing agency shall annually, before October 1,
report in writing to the Veterans Affairs and Emergency
Preparedness Committee of the Senate and the Veterans Affairs
and Emergency Preparedness Committee of the House of
Representatives concerning total contract dollars awarded to
veteran-owned small businesses by the purchasing agency during
the preceding fiscal year. The report shall include a list of
all veteran-owned small businesses that participated as
contractors, subcontractors or suppliers during the preceding
fiscal year. The department shall report to the standing
committees concerning the total number of businesses certified
as a veteran work force utilization business during the
preceding fiscal year. The report shall include a list of all
veteran work force utilization businesses during the preceding
fiscal year. The purchasing agencies shall submit the initial
reports to the standing committees under this section on or
before October 1, 2009 2011, or on or before October 1 at least
12 months after the effective date of this section, whichever is
later.

§ 2208. Compliance with Federal requirements.

If a procurement involves the expenditure of Federal
assistance or contract funds, the purchasing agency shall comply
with Federal law and authorized regulations that are mandatorily
applicable and that are not presently reflected in this part.

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