

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2143 Session of
2012

INTRODUCED BY PAYTON, WHEATLEY, BRADFORD, BUXTON, CALTAGIRONE,
COHEN, DALEY, DAVIDSON, DeLUCA, FABRIZIO, GIBBONS, HORNAMAN,
KIRKLAND, MIRABITO, MURT, MYERS, PARKER, PASHINSKI, PRESTON,
ROEBUCK, SWANGER AND YOUNGBLOOD, MARCH 13, 2012

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 13, 2012

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, in small and disadvantaged businesses, further
3 providing for definitions; and providing for small business
4 reserve.

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

7 Section 1. The introductory paragraph and the definition of
8 "disadvantaged business" in section 2102 of Title 62 of the
9 Pennsylvania Consolidated Statutes are amended and the section
10 is amended by adding definitions to read:

11 § 2102. Definitions.

12 [Subject] Notwithstanding section 103 (relating to
13 definitions) and subject to section 2103 (relating to
14 regulations), the following words and phrases when used in this
15 chapter shall have the meanings given to them in this section
16 unless the context clearly indicates otherwise:

17 "Disadvantaged business." A small business which is owned or
18 controlled by a majority of persons, not limited to members of

1 minority groups, who:

2 (1) have been deprived of the opportunity to develop and
3 maintain a competitive position in the economy because of
4 social disadvantages[.]; or

5 (2) are veterans, including service-disabled veterans.

6 "Service-disabled veteran." A veteran who possesses either
7 an adjudication letter from the United States Veterans'
8 Administration establishing a service-connected disability
9 rating or a disability determination from the United States
10 Department of Defense.

11 * * *

12 "Veteran." An individual who:

13 (1) Served in the active United States military in any
14 of the four current branches and all previous branches,
15 including a reserve component or the National Guard.

16 (2) Was released or discharged from active military
17 service under conditions other than dishonorable.

18 (3) Possesses a certificate of release or discharge from
19 active duty.

20 Section 2. Title 62 is amended by adding a section to read:
21 § 2109. Small business reserve program.

22 (a) Small business reserve.--The department shall establish
23 a small business reserve program for the purpose of increasing
24 economic opportunities for small and disadvantaged businesses
25 and affording small and disadvantaged businesses the opportunity
26 to bid on State government contracts without competing with
27 larger businesses. All procurement by the department shall be
28 eligible for designation for the small business reserve program,
29 and shall be published in the same manner as required for a
30 request for proposal or an invitation for bid.

1 (b) Reserve account.--Notwithstanding any other provision of
2 this title to the contrary, the department shall structure its
3 procurement procedures to reserve up to 10% of the total dollar
4 value of its procurement contracts, including public works,
5 construction and professional services and designed professional
6 services contracts, to be made directly to qualified small and
7 disadvantaged businesses. However, the total dollar value of
8 procurements by the department shall not include the value of
9 any contract to which this subsection would not apply because of
10 a conflict with Federal law.

11 (c) Awards.--The department shall award a procurement
12 contract designated for a small business reserve to the small
13 and disadvantaged business that submits a bid or proposal that:

14 (1) is the lowest bid price;

15 (2) is the lowest evaluated bid price, if the invitation
16 for bid or request for proposal so provides; or

17 (3) is in the best interest of the Commonwealth.

18 (d) Other Commonwealth agencies.--

19 (1) A Commonwealth agency may collaborate with the
20 department to structure its procurement procedures to provide
21 for a small business reserve program which shall be subject
22 to the requirements of this section.

23 (2) Upon request, the department shall assist the
24 procurement unit of a Commonwealth agency with the
25 development and implementation of a small business reserve.

26 (e) Construction and application.--

27 (1) The provisions of this section shall not be
28 construed to preclude any small and disadvantaged business
29 from competing for any other contract that is not
30 specifically designated for the small business reserve

1 program.

2 (2) The provisions of this section shall apply to any
3 eligible small business as defined under 62 Pa.C.S. § 2102
4 (relating to definitions).

5 (f) Regulations.--The department shall adopt and promulgate
6 regulations to govern the provisions of this section. The
7 regulations shall:

8 (1) Establish a comprehensive bidder's list of eligible
9 small and disadvantaged businesses.

10 (2) Provide procedures for maintaining the list in
11 paragraph (1).

12 (3) Include any other information the department
13 determines necessary and appropriate to carry out the
14 provisions of this section.

15 (g) Reports.--On or before December 31, 2014, and on or
16 before each December 31 thereafter, the department shall submit
17 a report to the Chief Clerk of the Senate and the Chief Clerk of
18 the House of Representatives on the operation and effectiveness
19 of the Small Business Reserve Program. The report shall include
20 the following:

21 (1) The total number and dollar value of payments the
22 department made to small and disadvantaged businesses
23 pursuant to designated small business reserve contracts.

24 (2) The total number and dollar value of payments the
25 department made to small and disadvantaged businesses that
26 were not designated as small business reserve contracts.

27 (3) The total dollar value of payments made by the
28 department under procurement contracts.

29 (4) Information on any Commonwealth agency that has
30 implemented a small business reserve program, including

1 information required under paragraphs (1), (2) and (3).
2 (5) Any other information or recommendation the
3 department determines necessary.
4 Section 3. This act shall take effect immediately.