

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2143 Session of
2010

INTRODUCED BY PARKER, WHEATLEY, BUXTON, JOSEPHS, THOMAS, BEYER,
BELFANTI, HENNESSEY, HORNAMAN, McCALL, PAYTON, ROEBUCK,
SIPTROTH, STURLA, WATERS AND YOUNGBLOOD, JANUARY 19, 2010

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JANUARY 19, 2010

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, in small and disadvantaged businesses, providing
3 for agency oversight and responsibility; and making an
4 appropriation.

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

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

9 § 2109. Agency oversight and responsibility.

10 Each Commonwealth agency shall identify best practices to
11 significantly increase contracting opportunities for
12 disadvantaged businesses. A Commonwealth agency awarding
13 contracts or grant funding shall develop and implement uniform
14 templates, best practices and procedures to increase oversight,
15 transparency and accountability in overseeing, administering,
16 monitoring and enforcing requirements to ensure increased and
17 sustained contracting opportunities for disadvantaged businesses
18 and shall include the following:

1 (1) Aspirational targets. Commonwealth agencies shall
2 establish an overall aspirational target of 25% of
3 procurement and construction moneys to be dedicated to
4 disadvantaged businesses in State contracts and grants,
5 including, but not limited to, procurement of goods and
6 services, construction, professional services, consulting,
7 insurance, investment brokers and managers, bond work, real
8 estate transactions and energy savings contracts. This
9 paragraph shall also apply to sole source contracts.
10 Contracts with optional renewal clauses that lacked initial
11 disadvantaged business requirements at award time shall be
12 subject to disadvantaged business review and inclusion
13 requirements prior to the renewal of the contract. An agency
14 shall monitor, track, enforce and report on the award of any
15 contract or grant quarterly and annually on its utilization
16 and spend with disadvantaged businesses to the Appropriations
17 Committee of the Senate and the Appropriations Committee of
18 the House of Representatives.

19 (2) Best practices. The department shall:

20 (i) Ensure that disadvantaged business participation
21 is included as part of agencies' strategic priorities
22 through identification of measurable goals and
23 objectives.

24 (ii) Develop a best practices manual for uniform
25 implementation of policies, practices, programs and
26 participation goals for disadvantaged businesses.

27 (iii) Establish a comprehensive quarterly and annual
28 reporting process, which includes award amount and actual
29 spending, for contractors, subcontractors and suppliers.

30 (iv) Designate single point of contact to implement,

1 monitor and report work force utilization and agency
2 contractor participation.

3 (v) Create a coordinated cross-agency, integrated
4 small business support services system to provide
5 training, consulting information management, business
6 management and technical assistance to disadvantaged
7 businesses to acquire the proficiency to compete on an
8 equal basis with majority contractors, vendors and
9 consultants.

10 (vi) Identify uniform monitoring, enforcement,
11 tracking and reporting and guideline practices.

12 (vii) Expand ability to quantify and measure the
13 effectiveness of agency programs.

14 (viii) Review the department's e-marketplace system
15 for potential expansion to all Commonwealth agencies.

16 (ix) Continue to connect disadvantaged businesses to
17 other entities, such as the Small Business Development
18 Centers, Minority Business Enterprise Centers and
19 Professional Technical Assistance Centers for financial
20 and technical assistance.

21 (3) Monitoring and enforcement. The following apply:

22 (i) Pursuant to its authority under State contract
23 compliance laws, policies and requirements, the
24 department and other Commonwealth agencies shall
25 institute and implement all necessary monitoring and
26 enforcement of provisions of this section as to the
27 Commonwealth's disadvantaged business program and shall
28 implement and follow all contract compliance
29 requirements, policies, guidelines and regulations and
30 applicable laws pertaining to minority-owned, women-

1 owned, small and disadvantaged businesses.

2 (ii) Each Commonwealth agency shall provide
3 mandatory quarterly and annual reports on utilization of
4 disadvantaged businesses on contracts. An evaluation of
5 the prime contractor's performance on contracts shall
6 include a review of good faith efforts in the oversight,
7 timely payment as provided under Ch. 39, Subch. D
8 (relating to prompt payment schedules) and continued
9 commitment to disadvantaged subcontractors. Sanctions for
10 failure to demonstrate good faith efforts in the
11 oversight, timely payment and commitment to disadvantaged
12 subcontractors shall include withholding of payments to
13 the prime contractor and suspension or debarment from
14 doing work for the Commonwealth for no less than 12
15 months and up to 36 months. The department and any other
16 Commonwealth agency may also institute any appropriate
17 and necessary administrative, legal, judicial and other
18 proceedings after inquiry, review or investigation, if it
19 finds that any person, contractor or grantee has failed
20 to comply with or has violated any requirement or action
21 set forth in this section.

22 Section 2. The sum of \$1,000,000, or as much thereof as may
23 be necessary, is hereby appropriated to the Department of
24 General Services for the fiscal year July 1, 2009, to June 30,
25 2010, to obtain a customized software program for monitoring,
26 tracking and reporting on disadvantaged business participation
27 levels, including, but not limited to, percentages, dollar
28 amount, ethnicity, gender and geographical representation under
29 62 Pa.C.S. § 2109(3).

30 Section 3. This act shall take effect immediately.