

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2148 Session of
2010

INTRODUCED BY BEYER, WHEATLEY, BUXTON, JOSEPHS, THOMAS, MUSTIO,
BISHOP, McCALL, PAYTON, PRESTON, REICHLEY, SIPTROTH, STURLA,
WATERS AND WATSON, 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 prime contractors' performance.

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

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

8 § 2109. Prime contractors' performance.

9 The department shall develop concise and detailed good faith
10 effort requirements for its prime contractors to ensure their
11 genuine attempt at meeting the State's disadvantaged business
12 subcontractor participation requirements. Contractors and
13 grantees doing business with the Commonwealth shall make
14 reasonable and good faith efforts to provide maximum practicable
15 opportunities for small disadvantaged businesses to participate
16 as contractors, professional service providers, subcontractors
17 and suppliers and to keep the contractual commitment made to
18 disadvantaged business subcontractors. Documentation of a good

faith effort shall include, but is not limited to, the following:

(1) Attendance at prebid or preproposal conferences.

(2) Copies of written notification sent to all disadvantaged businesses that perform the type of work to be subcontracted in sufficient time to allow the businesses to participate effectively.

(3) Advisement to the disadvantaged businesses of the specific work the prime contractor intends to subcontract, that their interest in the project is being solicited and how to obtain information for the review and inspection of the plans, specifications and requirements of the bid.

(4) A written statement that economically feasible portions of work were selected to be performed by disadvantaged businesses, including, where appropriate, segmenting or combining elements of work into economically feasible units.

(5) A statement of the efforts made to negotiate with disadvantaged businesses, including the name, address and telephone number of any disadvantaged business that was contacted; the date the negotiations took place; and a description of the information provided to the disadvantaged businesses regarding the plans, specifications and requirements for the portion of the work to be performed.

(6) Consulting with the Bureau of Minority and Women Business Opportunities to ensure significant contracting, professional service, subcontracting and purchasing opportunities for disadvantaged businesses unless the department agrees that contractor or grantee participation in outreach activities will satisfy this requirement.

1 (7) Participating in outreach activities and events to
2 increase small and disadvantaged business interest and
3 participation in contracting, professional service,
4 subcontracting and purchasing opportunities. The extent of
5 the contractor's or grantee's commitment to participate in
6 outreach participation shall be a consideration in the award
7 of any contract or grant.

8 (8) Using the department's Internet website to identify
9 certified disadvantaged businesses as potential sources for
10 professional service, subcontracting, purchasing,
11 construction, equipment, services and supplies.

12 (9) Soliciting certified disadvantaged businesses for
13 all contracting, professional service agreements,
14 subcontracting and purchasing opportunities.

15 (10) Including certified disadvantaged businesses on
16 solicitation lists.

17 (11) Preparing and retaining records of solicitations,
18 including a bid tabulation, showing names of all firms
19 solicited and the dollar amount of the bid, quote or
20 proposal, as well as copies of all bids, quotes and proposals
21 received.

22 (12) Providing quarterly reports to the Bureau of
23 Minority and Women Business Opportunities on small
24 disadvantaged business utilization.

25 (13) Demonstrating good faith efforts in the oversight
26 and timely payment, as provided under Ch. 39, Subch. D
27 (relating to prompt payment schedules), to disadvantaged
28 businesses and commitment to maintain the disadvantaged
29 subcontractor commitment made at the time of the award or
30 thereafter.

1 Section 2. This act shall take effect immediately.