

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1399 Session of  
2014

INTRODUCED BY BAKER, ARGALL, KASUNIC, ERICKSON, FONTANA, HUGHES,  
RAFFERTY, SCHWANK, WHITE, SOLOBAY, HUTCHINSON, SMITH,  
VULAKOVICH, WILEY, BOSCOLA AND MENSCH, JUNE 4, 2014

REFERRED TO STATE GOVERNMENT, JUNE 4, 2014

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated  
2 Statutes, in procurement of construction and design  
3 professional services, further providing for procurement of  
4 design professional services; and, in small and disadvantaged  
5 businesses, further providing for policy, for definitions,  
6 for duties of department, for bonding and progress payments  
7 and for report to General Assembly; and providing for small  
8 business reserve program.

9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. Section 905(b), (d) and (f) introductory  
12 paragraph of Title 62 of the Pennsylvania Consolidated Statutes  
13 are amended and the section is amended by adding a subsection to  
14 read:

15 § 905. Procurement of design professional services.

16 \* \* \*

17 (b) Policy.--It is the policy of this Commonwealth to  
18 publicly announce all requirements for design professional  
19 services and to award contracts for design professional services  
20 on the basis of demonstrated competence and qualification for

1 the types of services required. There shall be a committee to  
2 review the qualifications, experience and work of design  
3 professionals seeking contracts with purchasing agencies. The  
4 Secretary of General Services or his designee shall review the  
5 qualifications, experience and work of small design businesses  
6 for small business projects.

7 \* \* \*

8 (c.1) Selection process for department's small business  
9 reserve program.--Where the department is authorized by law to  
10 act as purchasing agency for design professional services for  
11 the small business reserve program as referenced in section 2109  
12 (relating to small business reserve program), the Secretary of  
13 General Services or his designee shall select small design  
14 businesses for each small business project from the list of  
15 department-verified small design businesses utilizing the  
16 factors specified in subsection (e)(2)(i), (ii), (iii), (iv) and  
17 (v).

18 (d) Selection committee for all other Commonwealth  
19 agencies.--Except as provided for in [subsection (c)]  
20 subsections (c) and (c.1), all purchasing agencies shall use the  
21 selection committee appointed by the Governor which shall be  
22 composed of five members, none of whom shall be employees of the  
23 Commonwealth or hold any elective office or office in any  
24 political party. The members shall be architects, engineers or  
25 other persons knowledgeable in construction. The members shall  
26 serve for terms of two years and shall not be removed except for  
27 cause. Of the original members, three shall serve for terms of  
28 two years and two for terms of one year. Thereafter, all terms  
29 shall be for two years. Each member shall be reimbursed for  
30 reasonable travel and other expenses incurred incident to

attendance at meetings and to assigned duties and also a per diem allowance in accordance with Commonwealth travel policies.

\* \* \*

(f) Design professionals.--Except as provided for in [subsection (g)] subsections (c.1) and (g), the head of the purchasing agency shall select design professionals as follows:

\* \* \*

Section 2. Chapter 21 heading of Title 62 is amended to read:

#### CHAPTER 21

##### SMALL AND [DISADVANTAGED] DIVERSE BUSINESSES

Section 3. Sections 2101, 2102, 2104, 2105 and 2107 of Title 62 are amended to read:

§ 2101. Policy.

The policy of this Commonwealth is to assist small and [disadvantaged] diverse businesses in learning how to do business with Commonwealth agencies. The department shall implement this policy in accordance with regulations promulgated by the department.

§ 2102. Definitions.

Subject to section 2103 (relating to regulations), the following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

["Disadvantaged business." A small business which is owned or controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages.]

"Diverse business." A small, department-verified business,

1 including, but not limited to, service-disabled veteran-owned  
2 business, veteran-owned business, woman-owned business or  
3 minority-owned business.

4 "Service-disabled." As defined in 51 Pa.C.S. § 9601  
5 (relating to definitions).

6 "Service-disabled veteran-owned small business." As defined  
7 in 51 Pa.C.S. § 9601.

8 "Small business." A business in the United States which is  
9 independently owned, is not dominant in its field of operation  
10 and employs 100 or fewer employees.

11 "Veteran." As defined in 51 Pa.C.S. § 9601.

12 "Veteran-owned small business." As defined in 51 Pa.C.S. §  
13 9601.

14 § 2104. Duties of department.

15 The department shall have the following duties:

16 (1) Where feasible, provide appropriate staff who shall  
17 be responsible to the department and who shall serve within  
18 designated Commonwealth agencies to assist small and  
19 [disadvantaged] diverse businesses in this Commonwealth in  
20 learning how to do business with Commonwealth agencies.

21 (2) Give special publicity to procurement procedures and  
22 issue special publications designed to assist small and  
23 [disadvantaged] diverse businesses in learning how to do  
24 business with Commonwealth agencies.

25 (3) Compile, maintain and make available source lists of  
26 small and [disadvantaged] diverse businesses for the purpose  
27 of encouraging procurement from small and disadvantaged  
28 businesses.

29 (4) Include small and [disadvantaged] diverse businesses  
30 on solicitation mailing lists.

1           (5) Assure that small and [disadvantaged] diverse  
2 businesses are solicited on each procurement for which the  
3 businesses may be suited.

4           (6) Develop special training programs to assist small  
5 and [disadvantaged] diverse businesses in learning how to do  
6 business with Commonwealth agencies.

7           (7) Assure that participation by diverse businesses is,  
8 if appropriate, factored into the evaluation of proposals for  
9 supplies, services or construction when a purchasing agency  
10 uses the competitive sealed proposals method under section  
11 513 (relating to competitive sealed proposals).

12           (8) Verify the current certification of businesses  
13 seeking verification as diverse businesses.

14 § 2105. Bonding and progress payments.

15       (a) Bonding.--Notwithstanding other provisions of this part,  
16 a purchasing agency may reduce the level or change the types of  
17 bonding normally required or accept alternative forms of  
18 security to the extent reasonably necessary to encourage  
19 procurement from small and [disadvantaged] diverse businesses.

20       (b) Progress payments.--A purchasing agency may make special  
21 provisions for progress payments as it deems reasonably  
22 necessary to encourage procurement from small and  
23 [disadvantaged] diverse businesses.

24       (c) Exemption.--For contracts under \$25,000, small and  
25 diverse businesses shall be exempt from bonding requirements  
26 under this part.

27 § 2107. Report to General Assembly.

28       The department shall annually, before October 1, report in  
29 writing to the General Assembly [concerning the awarding of  
30 contracts to small and disadvantaged businesses during the

preceding fiscal year] on the actual utilization of small and  
diverse businesses as contractors and subcontractors. The report  
shall include a list of all small and [disadvantaged] diverse  
businesses that participated as contractors, subcontractors or  
suppliers during the preceding fiscal year [for contracts if the  
number of contractors under a previously existing contract for  
the same supply or service is reduced to a single contractor or  
reduced by more than 50% of the number existing on September 30,  
2003. In preparing the report, the department shall verify  
whether commitments made to small and disadvantaged businesses  
in the course of awarding these contracts have been maintained].

Section 4. Title 62 is amended by adding a section to read:

§ 2109. Small business reserve program.

The department shall establish a small business reserve  
program for the purpose of increasing economic opportunities for  
small businesses and affording small businesses, including small  
and diverse businesses, veteran-owned businesses and service-  
disabled veteran-owned businesses, the opportunity to bid on  
Commonwealth agency contracts without competing with larger  
businesses.

Section 5. This act shall take effect in 60 days.