

MILITARY AND VETERANS CODE (51 PA.C.S.) - CONTRACTING WITH
VETERAN-OWNED SMALL BUSINESSES AND DUTIES ON DEPARTMENT OF
GENERAL SERVICES AND OTHER COMMONWEALTH PURCHASING AGENCIES
Act of Oct. 24, 2012, P.L. 1468, No. 185 Cl. 51
Session of 2012
No. 2012-185

SB 623

AN ACT

Amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, providing for contracting with veteran-owned small businesses; and imposing duties on the Department of General Services and other Commonwealth purchasing agencies.

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

Section 1. Title 51 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

**CHAPTER 96
VETERAN-OWNED SMALL BUSINESSES**

Sec.

- 9601. Definitions.
- 9602. Regulations.
- 9603. Participation goal.
- 9604. Duties of Department of General Services.
- 9605. Bonding and progress payments.
- 9606. (Reserved).
- 9607. Reports.
- 9608. Compliance with Federal requirements.

§ 9601. Definitions.

Subject to section 9602 (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:

"Commonwealth agency." As defined in 62 Pa.C.S. § 103 (relating to definitions).

"Executive agency." As defined in 62 Pa.C.S. § 103 (relating to definitions).

"Purchasing agency." As defined in 62 Pa.C.S. § 103 (relating to definitions).

"Service-disabled." Being in possession of:

- (1) a disability rating letter issued by the United States Department of Veterans Affairs; or
- (2) a disability determination from the United States Department of Defense.

"Service-disabled veteran-owned small business." A small business owned and controlled by:

- (1) a service-disabled veteran or veterans; or
- (2) if approved by the Department of General Services, a surviving spouse or permanent caregiver of a service-disabled veteran.

"Small business." As defined in 62 Pa.C.S. § 2102 (relating to definitions).

"State-affiliated entity." As defined in 62 Pa.C.S. § 103 (relating to definitions).

"Veteran." An individual who served on active duty in the United States Armed Forces, including any of the following:

(1) A reservist or member of the National Guard who was discharged or released from the service under honorable conditions.

(2) A reservist or member of the National Guard who completed an initial term of enlistment or qualifying period of service.

(3) A reservist or member of the National Guard who was disabled in the line of duty during training.

"Veteran-owned small business." A small business owned and controlled by a veteran or veterans.

§ 9602. Regulations.

(a) Promulgation.--The Department of General Services shall establish policy in accordance with this chapter for executive agencies and independent agencies and may, in consultation with the department, promulgate regulations establishing detailed definitions of the words and phrases defined in section 9601 (relating to definitions) using, in addition to the criteria set forth in section 9601, other criteria as it deems appropriate, including the number of employees and the dollar volume of business.

(b) Implementation.--State-affiliated entities shall implement the policy for their procurement programs.

(c) Antifraud provisions.--The Department of General Services shall establish policy and promulgate regulations establishing antifraud provisions to deter and penalize businesses that are not owned by those who are service-disabled or by veterans but who falsely claim that they are in order to receive any action authorized by this chapter.

(d) Notice.--Notice of the antifraud provisions and an e-mail address and telephone number to report violations of the antifraud provisions to the Department of General Services shall be included, if feasible, in any application to be certified or to be included in any source list authorized by this chapter. The Department of General Services shall include in its annual reports to the General Assembly information about the number of businesses penalized for violating antifraud provisions.

§ 9603. Participation goal.

A Statewide annual goal of not less than 3% participation by veteran-owned small businesses, including service-disabled veteran-owned small businesses, is established. The participation goal shall apply to the total value of all contracts available to small businesses in each fiscal year.

§ 9604. Duties of Department of General Services.

The Department of General Services, with the assistance of the department, shall have the following duties:

(1) If feasible, provide appropriate staff, who shall be responsible to the Department of General Services and who shall serve within designated Commonwealth agencies to assist veteran-owned small businesses and service-disabled 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 and service-disabled veteran-owned small businesses in learning how to do business with Commonwealth agencies.

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

(4) Include veteran-owned small businesses and service-disabled veteran-owned small businesses on solicitation mailing lists.

(5) Assure that veteran-owned small businesses and service-disabled veteran-owned small businesses are solicited on procurements for which the businesses may be suited.

(6) Develop special training programs to assist veteran-owned small businesses and service-disabled veteran-owned small businesses in learning how to do business with Commonwealth agencies.

(7) Assure that participation by veteran-owned small businesses and service-disabled veteran-owned small businesses is, if appropriate, factored into the evaluation of proposals for supplies, services or construction when a purchasing agency uses the competitive sealed proposals method under 62 Pa.C.S. § 513 (relating to competitive sealed proposals).

(8) Verify the current certification of businesses claiming to be certified as veteran-owned small businesses and service-disabled veteran-owned small businesses.

§ 9605. Bonding and progress payments.

(a) Bonding.--Notwithstanding 62 Pa.C.S. Pt. I (relating to Commonwealth Procurement Code):

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

(2) For contracts under \$25,000, veteran-owned small businesses and service-disabled veteran-owned small businesses shall be exempt from any bonding requirements.

(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 and service-disabled veteran-owned small businesses.

§ 9606. (Reserved).

§ 9607. Reports.

(a) Report to Department of General Services.--By August 15, 2013, and each August 15 thereafter, each executive agency and independent agency shall submit an annual report for the period of July 1 to June 30 to the Department of General Services on actual utilization of veteran-owned small businesses and service-disabled veteran-owned small businesses as contractors, subcontractors, suppliers and professional service providers.

(b) Report to standing committees.--

(1) The Department of General Services and each State-affiliated entity 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 the actual utilization, Statewide and by each purchasing agency, of veteran-owned small businesses and service-disabled veteran-owned small businesses during the preceding fiscal year.

(2) The report shall include a list of all veteran-owned small businesses and service-disabled veteran-owned small businesses that participated as contractors, subcontractors, suppliers and professional service providers during the preceding fiscal year.

(3) Initial reports under this subsection shall be submitted to the standing committees by October 1, 2013.
§ 9608. 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 62 Pa.C.S. Pt. I (relating to Commonwealth Procurement Code).

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

APPROVED--The 24th day of October, A.D. 2012.

TOM CORBETT