

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 87

Session of 2007

INTRODUCED BY TOMLINSON, SCARNATI, WONDERLING, BOSCOLA, COSTA, FONTANA, ERICKSON, PUNT, BRUBAKER, RAFFERTY, C. WILLIAMS, TARTAGLIONE, BROWNE, FERLO, RHOADES, ROBBINS, ARMSTRONG, D. WHITE, GREENLEAF, REGOLA, MUSTO, PILEGGI, MELLOW, STACK, LOGAN AND BAKER, FEBRUARY 13, 2007

AS AMENDED ON THIRD CONSIDERATION, JUNE 19, 2007

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, providing for contracting with veteran-owned
3 businesses; and imposing duties on the Department of General
4 Services AND OTHER COMMONWEALTH PURCHASING AGENCIES. <—

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 chapter to read:

9 CHAPTER 22

10 VETERAN-OWNED BUSINESSES

11 Sec.

12 2201. Definitions.

13 2202. Regulations.

14 2203. Veteran-owned business participation goals.

15 2204. Duties of department.

16 2205. Bonding and progress payments.

17 2206. Business assistance offices.

1 2207. Report to General Assembly STANDING COMMITTEES. <—

2 2208. Compliance with Federal requirements.

3 § 2201. Definitions.

4 Subject to section 2202 (relating to regulations), the
5 following words and phrases when used in this chapter shall have
6 the meanings given to them in this section unless the context
7 clearly indicates otherwise:

8 "Veteran." A veteran of the armed forces of the United <—
9 States, including, but not limited to, the National Guard, who
10 has received an honorable discharge and who is domiciled in this
11 Commonwealth.

12 "Veteran owned business." A business that is owned or
13 controlled by a majority of persons who are veterans.

14 "ACTIVE SERVICE." FULL-TIME MILITARY DUTY, OTHER THAN ACTIVE <—
15 DUTY FOR TRAINING, AS A MEMBER OF THE UNITED STATES ARMY, AIR
16 FORCE, NAVY, MARINE CORPS OR COAST GUARD, OR THEIR RESERVE
17 COMPONENTS OR THE NATIONAL GUARD. THE TERM INCLUDES FULL-TIME
18 SERVICE FOR MORE THAN 30 CONSECUTIVE DAYS PERFORMING ACTIVE
19 STATE DUTY FOR EMERGENCIES AS A MEMBER OF THE PENNSYLVANIA
20 NATIONAL GUARD.

21 "PURCHASING AGENCY." A COMMONWEALTH AGENCY AUTHORIZED BY LAW
22 TO ENTER INTO CONTRACTS FOR ITSELF OR AS THE AGENT OF ANOTHER
23 COMMONWEALTH AGENCY.

24 "VETERAN." AN INDIVIDUAL WHO PERFORMED ACTIVE SERVICE IN THE
25 ARMED FORCES OF THE UNITED STATES, INCLUDING THE RESERVE
26 COMPONENTS AND THE NATIONAL GUARD, WHO WAS DISCHARGED FROM THE
27 ACTIVE SERVICE UNDER HONORABLE CONDITIONS AND WHO IS DOMICILED
28 IN THIS COMMONWEALTH.

29 "VETERAN-OWNED BUSINESS." A BUSINESS NOT LESS THAN 51% OF
30 WHICH IS OWNED BY ONE OR MORE VETERANS, OR IN THE CASE OF ANY

1 PUBLICLY OWNED BUSINESS, NOT LESS THAN 51% OF THE STOCK OF WHICH
2 IS OWNED BY ONE OR MORE VETERANS, AND THE MANAGEMENT AND DAILY
3 BUSINESS OPERATIONS OF WHICH ARE CONTROLLED BY ONE OR MORE
4 VETERANS.

5 "VETERAN WORK FORCE UTILIZATION BUSINESS." A BUSINESS
6 IDENTIFIED BY THE DEPARTMENT AS ONE WHICH DEVELOPS AND
7 IMPLEMENTS SPECIAL PROCESSES AND PROCEDURES FOR RECRUITING,
8 RETAINING, TRAINING OR DEVELOPING VETERAN EMPLOYEES AND WHOSE
9 WORK FORCE IS NO LESS THAN 10% VETERANS.

10 § 2202. Regulations.

11 The department shall establish policy in accordance with this
12 chapter for executive agencies and those independent agencies
13 for which the department acts as purchasing agency and may
14 promulgate regulations establishing detailed definitions of the
15 words and phrases defined in section 2201 (relating to
16 definitions) using, in addition to the criteria set forth in
17 section 2201, other criteria as it deems appropriate. State-
18 affiliated entities shall implement the policy for their
19 procurement programs.

20 § 2203. Veteran-owned business participation goals.

21 Each purchasing agency shall have an annual goal of not less
22 than 5% participation by veteran-owned businesses in all
23 contracts entered into by the purchasing agency. The
24 participation goal shall apply to the overall dollar amount
25 expended by the purchasing agency with respect to the contracts.

26 § 2204. Duties of department.

27 The department shall have the following duties:

28 (1) Where feasible, provide appropriate staff who shall
29 be responsible to the department and who shall serve within
30 designated Commonwealth agencies to assist veteran-owned

1 businesses in this Commonwealth in learning how to do
2 business with Commonwealth agencies.

3 (2) Give special publicity to procurement procedures and
4 issue special publications designed to assist veteran-owned
5 businesses in learning how to do business with Commonwealth
6 agencies.

7 (3) Compile, maintain and make available source lists of
8 veteran-owned businesses for the purpose of encouraging
9 procurement from veteran-owned businesses.

10 (4) Include veteran-owned businesses on solicitation
11 mailing lists.

12 (5) Assure that veteran-owned businesses are solicited
13 on each procurement for which the businesses may be suited.

14 (6) Develop special training programs to assist veteran-
15 owned businesses in learning how to do business with
16 Commonwealth agencies.

17 ~~(7) Facilitate achievement of the participation goals~~ <—
18 ~~for veteran owned businesses under section 2203 (relating to~~
19 ~~veteran owned business participation goals).~~

20 (7) ASSURE THAT PARTICIPATION BY VETERAN-OWNED <—
21 BUSINESSES IS APPROPRIATELY FACTORED INTO THE EVALUATION OF
22 PROPOSALS FOR SUPPLIES, SERVICES OR CONSTRUCTION WHEN A
23 PURCHASING AGENCY USES THE COMPETITIVE SEALED PROPOSALS
24 METHOD UNDER SECTION 513 (RELATING TO COMPETITIVE SEALED
25 PROPOSALS).

26 (8) CERTIFY BUSINESSES THAT HAVE BEEN IDENTIFIED AS
27 VETERAN WORK FORCE UTILIZATION BUSINESSES.

28 § 2205. Bonding and progress payments.

29 (a) Bonding.--Notwithstanding other provisions of this part,
30 a purchasing agency may reduce the level or change the types of

1 bonding normally required or accept alternative forms of
2 security to the extent reasonably necessary to encourage
3 procurement from veteran-owned businesses.

4 (b) Progress payments.--A purchasing agency may make special
5 provisions for progress payments as it deems reasonably
6 necessary to encourage procurement from veteran-owned
7 businesses.

8 § 2206. Business assistance offices.

9 The department shall establish, as it deems appropriate,
10 business assistance offices throughout this Commonwealth to
11 assist and carry out the provisions of this chapter.

12 ~~§ 2207. Report to General Assembly.~~ <—

13 ~~The department shall annually, before October 1, report in~~
14 ~~writing to the General Assembly concerning the awarding of~~
15 ~~contracts to veteran owned businesses during the preceding~~
16 ~~fiscal year. The report shall include a list of all veteran-~~
17 ~~owned businesses that participated as contractors,~~
18 ~~subcontractors or suppliers during the preceding fiscal year for~~
19 ~~contracts if the number of contractors under a previously~~
20 ~~existing contract for the same supply or service is reduced to a~~
21 ~~single contractor or reduced by more than 50% of the number~~
22 ~~existing on December 31, 2006. In preparing the report, the~~
23 ~~department shall verify whether commitments made to veteran-~~
24 ~~owned businesses in the course of awarding these contracts have~~
25 ~~been maintained.~~

26 § 2207. REPORT TO STANDING COMMITTEES. <—

27 EACH PURCHASING AGENCY SHALL ANNUALLY, BEFORE OCTOBER 1,
28 REPORT IN WRITING TO THE VETERANS AFFAIRS AND EMERGENCY
29 PREPAREDNESS COMMITTEE OF THE SENATE AND THE VETERANS AFFAIRS
30 AND EMERGENCY PREPAREDNESS COMMITTEE OF THE HOUSE OF

1 REPRESENTATIVES CONCERNING TOTAL CONTRACT DOLLARS AWARDED TO
2 VETERAN-OWNED BUSINESSES BY THE PURCHASING AGENCY DURING THE
3 PRECEDING FISCAL YEAR. THE REPORT SHALL INCLUDE A LIST OF ALL
4 VETERAN-OWNED BUSINESSES THAT PARTICIPATED AS CONTRACTORS,
5 SUBCONTRACTORS OR SUPPLIERS DURING THE PRECEDING FISCAL YEAR.
6 THE DEPARTMENT SHALL REPORT TO THE STANDING COMMITTEES
7 CONCERNING THE TOTAL NUMBER OF BUSINESSES CERTIFIED AS A VETERAN
8 WORK FORCE UTILIZATION BUSINESS DURING THE PRECEDING FISCAL
9 YEAR. THE REPORT SHALL INCLUDE A LIST OF ALL VETERAN WORK FORCE
10 UTILIZATION BUSINESSES DURING THE PRECEDING FISCAL YEAR. THE
11 PURCHASING AGENCIES SHALL SUBMIT THE INITIAL REPORTS TO THE
12 STANDING COMMITTEES UNDER THIS SECTION ON OR BEFORE OCTOBER 1,
13 2008, OR ON OR BEFORE OCTOBER 1 AT LEAST 12 MONTHS AFTER THE
14 EFFECTIVE DATE OF THIS SECTION, WHICHEVER IS LATER.

15 § 2208. Compliance with Federal requirements.

16 If a procurement involves the expenditure of Federal
17 assistance or contract funds, the purchasing agency shall comply
18 with Federal law and authorized regulations that are mandatorily
19 applicable and that are not presently reflected in this part.

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