

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 623 Session of 2011

INTRODUCED BY TOMLINSON, BAKER, SCARNATI, PILEGGI, ERICKSON, VOGEL, YAW, FONTANA, BOSCOLA, STACK, RAFFERTY, SOLOBAY, BRUBAKER, ALLOWAY, WAUGH, BROWNE, TARTAGLIONE, D. WHITE, COSTA, WILLIAMS, MENSCH, GREENLEAF, FARNESE, WARD AND BREWSTER, FEBRUARY 23, 2011

AS REPORTED FROM COMMITTEE ON VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 25, 2012

AN ACT

1 Amending Title ~~62 (Procurement)~~ 51 (MILITARY AFFAIRS) of the ←
2 Pennsylvania Consolidated Statutes, providing for contracting
3 with veteran-owned small businesses; and imposing duties on
4 the Department of General Services and other Commonwealth
5 purchasing agencies.

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

8 Section 1. Title ~~62~~ 51 of the Pennsylvania Consolidated ←
9 Statutes is amended by adding a chapter to read:

CHAPTER 22 ←

VETERAN OWNED SMALL BUSINESSES

12 Sec.

13 2201. Definitions.

14 2202. Regulations.

15 2203. Veteran-owned small business participation goals.

16 2204. Duties of department.

1 ~~2205. Bonding and progress payments.~~

2 ~~2206. (Reserved).~~

3 ~~2207. Reports.~~

4 ~~2208. Compliance with Federal requirements.~~

5 ~~§ 2201. Definitions.~~

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

10 ~~"Service disabled." A veteran who possesses either a~~
11 ~~disability rating letter issued by the United States Department~~
12 ~~of Veterans Affairs or a disability determination from the~~
13 ~~United States Department of Defense.~~

14 ~~"Service disabled veteran owned small business." A small~~
15 ~~business owned and controlled by a service disabled veteran or~~
16 ~~veterans or, if approved by the Department of General Services,~~
17 ~~a surviving spouse or permanent caregiver of a service disabled~~
18 ~~veteran.~~

19 ~~"Small business." A business that does not exceed the~~
20 ~~limitation on revenue or number of employees established by the~~
21 ~~Department of General Services for designation as a small~~
22 ~~business.~~

23 ~~"Veteran." A person who served on active duty in the United~~
24 ~~States Armed Forces, including any of the following:~~

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

28 ~~(2) A reservist or member of the National Guard who~~
29 ~~completed an initial term of enlistment or qualifying period~~
30 ~~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.~~

~~§ 2202. Regulations.~~

~~The department shall establish policy in accordance with this chapter for executive agencies and independent agencies and may promulgate regulations establishing detailed definitions of the words and phrases defined in section 2201 (relating to definitions) using, in addition to the criteria set forth in section 2201, other criteria as it deems appropriate, including the number of employees and the dollar volume of business.~~

~~State affiliated entities shall implement the policy for their procurement programs.~~

~~§ 2203. Veteran owned small business participation goals.~~

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

~~§ 2204. Duties of department.~~

~~The department shall have the following duties:~~

~~(1) Where feasible, provide appropriate staff who shall be responsible to the department 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~~

~~1 small businesses and service disabled veteran owned small
2 businesses in learning how to do business with Commonwealth
3 agencies.~~

~~4 (3) Compile, maintain and make available source lists of
5 veteran owned small businesses and service disabled
6 veteran owned small businesses for the purpose of encouraging
7 procurement from veteran owned small businesses.~~

~~8 (4) Include veteran owned small businesses and
9 service disabled veteran owned small businesses on
10 solicitation mailing lists.~~

~~11 (5) Assure that veteran owned small businesses and
12 service disabled veteran owned small 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 small businesses and service disabled veteran owned
16 small businesses in learning how to do business with
17 Commonwealth agencies.~~

~~18 (7) Assure that participation by veteran owned small
19 businesses and service disabled veteran owned small
20 businesses is appropriately factored into the evaluation of
21 proposals for supplies, services or construction when a
22 purchasing agency uses the competitive sealed proposals
23 method under section 513 (relating to competitive sealed
24 proposals).~~

~~25 (8) Certify businesses that have been identified as
26 veteran owned small businesses and service disabled
27 veteran owned small businesses.~~

~~28 § 2205. Bonding and progress payments.~~

~~29 (a) Bonding. Notwithstanding other provisions of this part:~~

~~30 (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 \$50,000, 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.~~

~~§ 2206. (Reserved).~~

~~§ 2207. Reports.~~

~~(a) Report to Department of General Services. By August 15, 2013, and each August 15 thereafter, each executive 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. The department 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 concerning total contract dollars awarded to veteran owned small businesses and service disabled veteran owned small businesses by the purchasing agency during the preceding fiscal year. The report shall include a list of all veteran owned small~~

~~1 businesses and service disabled veteran owned small businesses~~
~~2 that participated as contractors, subcontractors or suppliers~~
~~3 during the preceding fiscal year. The department and State~~
~~4 affiliated entity initial reports shall be submitted to the~~
~~5 standing committees under this section on or before October 1,~~
~~6 2012, or on or before October 1 at least 12 months after the~~
~~7 effective date of this section, whichever is later.~~

~~8 § 2208. Compliance with Federal requirements.~~

~~9 If a procurement involves the expenditure of Federal~~
~~10 assistance or contract funds, the purchasing agency shall comply~~
~~11 with Federal law and authorized regulations that are mandatorily~~
~~12 applicable and that are not presently reflected in this part.~~

13 CHAPTER 96 ←

14 VETERAN-OWNED SMALL BUSINESSES

15 SEC.

16 9601. DEFINITIONS.

17 9602. REGULATIONS.

18 9603. PARTICIPATION GOAL.

19 9604. DUTIES OF DEPARTMENT OF GENERAL SERVICES.

20 9605. BONDING AND PROGRESS PAYMENTS.

21 9606. (RESERVED).

22 9607. REPORTS.

23 9608. COMPLIANCE WITH FEDERAL REQUIREMENTS.

24 § 9601. DEFINITIONS.

25 SUBJECT TO SECTION 9602 (RELATING TO REGULATIONS), THE
26 FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER SHALL HAVE
27 THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT
28 CLEARLY INDICATES OTHERWISE:

29 "COMMONWEALTH AGENCY." AS DEFINED IN 62 PA.C.S. § 103
30 (RELATING TO DEFINITIONS).

1 "EXECUTIVE AGENCY." AS DEFINED IN 62 PA.C.S. § 103.

2 "PURCHASING AGENCY." AS DEFINED IN 62 PA.C.S. § 103.

3 "SERVICE-DISABLED." BEING IN POSSESSION OF:

4 (1) A DISABILITY RATING LETTER ISSUED BY THE UNITED
5 STATES DEPARTMENT OF VETERANS AFFAIRS; OR

6 (2) A DISABILITY DETERMINATION FROM THE UNITED STATES
7 DEPARTMENT OF DEFENSE.

8 "SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS." A SMALL
9 BUSINESS OWNED AND CONTROLLED BY:

10 (1) A SERVICE-DISABLED VETERAN OR VETERANS; OR

11 (2) IF APPROVED BY THE DEPARTMENT OF GENERAL SERVICES, A
12 SURVIVING SPOUSE OR PERMANENT CAREGIVER OF A SERVICE-DISABLED
13 VETERAN.

14 "SMALL BUSINESS." AS DEFINED IN 62 PA.C.S. § 2102 (RELATING
15 TO DEFINITIONS).

16 "STATE-AFFILIATED ENTITY." AS DEFINED IN 62 PA.C.S. § 103.

17 "VETERAN." AN INDIVIDUAL WHO SERVED ON ACTIVE DUTY IN THE
18 UNITED STATES ARMED FORCES, INCLUDING ANY OF THE FOLLOWING:

19 (1) A RESERVIST OR MEMBER OF THE NATIONAL GUARD WHO WAS
20 DISCHARGED OR RELEASED FROM THE SERVICE UNDER HONORABLE
21 CONDITIONS.

22 (2) A RESERVIST OR MEMBER OF THE NATIONAL GUARD WHO
23 COMPLETED AN INITIAL TERM OF ENLISTMENT OR QUALIFYING PERIOD
24 OF SERVICE.

25 (3) A RESERVIST OR MEMBER OF THE NATIONAL GUARD WHO WAS
26 DISABLED IN THE LINE OF DUTY DURING TRAINING.

27 "VETERAN-OWNED SMALL BUSINESS." A SMALL BUSINESS OWNED AND
28 CONTROLLED BY A VETERAN OR VETERANS.

29 § 9602. REGULATIONS.

30 (A) PROMULGATION.--THE DEPARTMENT OF GENERAL SERVICES SHALL

1 ESTABLISH POLICY IN ACCORDANCE WITH THIS CHAPTER FOR EXECUTIVE
2 AGENCIES AND INDEPENDENT AGENCIES AND MAY, IN CONSULTATION WITH
3 THE DEPARTMENT, PROMULGATE REGULATIONS ESTABLISHING DETAILED
4 DEFINITIONS OF THE WORDS AND PHRASES DEFINED IN SECTION 9601
5 (RELATING TO DEFINITIONS) USING, IN ADDITION TO THE CRITERIA SET
6 FORTH IN SECTION 9601, OTHER CRITERIA AS IT DEEMS APPROPRIATE,
7 INCLUDING THE NUMBER OF EMPLOYEES AND THE DOLLAR VOLUME OF
8 BUSINESS.

9 (B) IMPLEMENTATION.--STATE-AFFILIATED ENTITIES SHALL
10 IMPLEMENT THE POLICY FOR THEIR PROCUREMENT PROGRAMS.

11 § 9603. PARTICIPATION GOAL.

12 A STATEWIDE ANNUAL GOAL OF NOT LESS THAN 3% PARTICIPATION BY
13 VETERAN-OWNED SMALL BUSINESSES, INCLUDING SERVICE-DISABLED
14 VETERAN-OWNED SMALL BUSINESSES, IS ESTABLISHED. THE
15 PARTICIPATION GOAL SHALL APPLY TO THE TOTAL VALUE OF ALL
16 CONTRACTS AVAILABLE TO SMALL BUSINESSES IN EACH FISCAL YEAR.

17 § 9604. DUTIES OF DEPARTMENT OF GENERAL SERVICES.

18 THE DEPARTMENT OF GENERAL SERVICES, WITH THE ASSISTANCE OF
19 THE DEPARTMENT, SHALL HAVE THE FOLLOWING DUTIES:

20 (1) IF FEASIBLE, PROVIDE APPROPRIATE STAFF, WHO SHALL BE
21 RESPONSIBLE TO THE DEPARTMENT OF GENERAL SERVICES AND WHO
22 SHALL SERVE WITHIN DESIGNATED COMMONWEALTH AGENCIES TO ASSIST
23 VETERAN-OWNED SMALL BUSINESSES AND SERVICE-DISABLED VETERAN-
24 OWNED SMALL BUSINESSES IN THIS COMMONWEALTH IN LEARNING HOW
25 TO DO BUSINESS WITH COMMONWEALTH AGENCIES.

26 (2) GIVE SPECIAL PUBLICITY TO PROCUREMENT PROCEDURES AND
27 ISSUE SPECIAL PUBLICATIONS DESIGNED TO ASSIST VETERAN-OWNED
28 SMALL BUSINESSES AND SERVICE-DISABLED VETERAN-OWNED SMALL
29 BUSINESSES IN LEARNING HOW TO DO BUSINESS WITH COMMONWEALTH
30 AGENCIES.

1 (3) COMPILE, MAINTAIN AND MAKE AVAILABLE SOURCE LISTS OF
2 VETERAN-OWNED SMALL BUSINESSES AND SERVICE-DISABLED VETERAN-
3 OWNED SMALL BUSINESSES FOR THE PURPOSE OF ENCOURAGING
4 PROCUREMENT FROM VETERAN-OWNED SMALL BUSINESSES.

5 (4) INCLUDE VETERAN-OWNED SMALL BUSINESSES AND SERVICE-
6 DISABLED VETERAN-OWNED SMALL BUSINESSES ON SOLICITATION
7 MAILING LISTS.

8 (5) ASSURE THAT VETERAN-OWNED SMALL BUSINESSES AND
9 SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESSES ARE SOLICITED
10 ON PROCUREMENTS FOR WHICH THE BUSINESSES MAY BE SUITED.

11 (6) DEVELOP SPECIAL TRAINING PROGRAMS TO ASSIST VETERAN-
12 OWNED SMALL BUSINESSES AND SERVICE-DISABLED VETERAN-OWNED
13 SMALL BUSINESSES IN LEARNING HOW TO DO BUSINESS WITH
14 COMMONWEALTH AGENCIES.

15 (7) ASSURE THAT PARTICIPATION BY VETERAN-OWNED SMALL
16 BUSINESSES AND SERVICE-DISABLED VETERAN-OWNED SMALL
17 BUSINESSES IS, IF APPROPRIATE, FACTORED INTO THE EVALUATION
18 OF PROPOSALS FOR SUPPLIES, SERVICES OR CONSTRUCTION WHEN A
19 PURCHASING AGENCY USES THE COMPETITIVE SEALED PROPOSALS
20 METHOD UNDER 62 PA.C.S. § 513 (RELATING TO COMPETITIVE SEALED
21 PROPOSALS).

22 (8) VERIFY THE CURRENT CERTIFICATION OF BUSINESSES
23 CLAIMING TO BE CERTIFIED AS VETERAN-OWNED SMALL BUSINESSES
24 AND SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESSES.

25 § 9605. BONDING AND PROGRESS PAYMENTS.

26 (A) BONDING.--NOTWITHSTANDING 62 PA.C.S. PT. I (RELATING TO
27 COMMONWEALTH PROCUREMENT CODE):

28 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), A PURCHASING
29 AGENCY MAY REDUCE THE LEVEL OR CHANGE THE TYPES OF BONDING
30 NORMALLY REQUIRED OR ACCEPT ALTERNATIVE FORMS OF SECURITY TO

1 THE EXTENT REASONABLY NECESSARY TO ENCOURAGE PROCUREMENT FROM
2 VETERAN-OWNED SMALL BUSINESSES AND SERVICE-DISABLED VETERAN-
3 OWNED SMALL BUSINESSES.

4 (2) FOR CONTRACTS UNDER \$25,000, VETERAN-OWNED SMALL
5 BUSINESSES AND SERVICE-DISABLED VETERAN-OWNED SMALL
6 BUSINESSES SHALL BE EXEMPT FROM ANY BONDING REQUIREMENTS.

7 (B) PROGRESS PAYMENTS.--A PURCHASING AGENCY MAY MAKE SPECIAL
8 PROVISIONS FOR PROGRESS PAYMENTS AS IT DEEMS REASONABLY
9 NECESSARY TO ENCOURAGE PROCUREMENT FROM VETERAN-OWNED SMALL
10 BUSINESSES AND SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESSES.

11 § 9606. (RESERVED).

12 § 9607. REPORTS.

13 (A) REPORT TO DEPARTMENT OF GENERAL SERVICES.--BY AUGUST 15,
14 2013, AND EACH AUGUST 15 THEREAFTER, EACH EXECUTIVE AGENCY AND
15 INDEPENDENT AGENCY SHALL SUBMIT AN ANNUAL REPORT FOR THE PERIOD
16 OF JULY 1 TO JUNE 30 TO THE DEPARTMENT OF GENERAL SERVICES ON
17 ACTUAL UTILIZATION OF VETERAN-OWNED SMALL BUSINESSES AND
18 SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESSES AS CONTRACTORS,
19 SUBCONTRACTORS, SUPPLIERS AND PROFESSIONAL SERVICE PROVIDERS.

20 (B) REPORT TO STANDING COMMITTEES.--

21 (1) THE DEPARTMENT OF GENERAL SERVICES AND EACH STATE-
22 AFFILIATED ENTITY SHALL ANNUALLY, BEFORE OCTOBER 1, REPORT IN
23 WRITING TO THE VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS
24 COMMITTEE OF THE SENATE AND THE VETERANS AFFAIRS AND
25 EMERGENCY PREPAREDNESS COMMITTEE OF THE HOUSE OF
26 REPRESENTATIVES THE ACTUAL UTILIZATION, STATEWIDE AND BY EACH
27 PURCHASING AGENCY, OF VETERAN-OWNED SMALL BUSINESSES AND
28 SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESSES DURING THE
29 PRECEDING FISCAL YEAR.

30 (2) THE REPORT SHALL INCLUDE A LIST OF ALL VETERAN-OWNED

1 SMALL BUSINESSES AND SERVICE-DISABLED VETERAN-OWNED SMALL
2 BUSINESSES THAT PARTICIPATED AS CONTRACTORS, SUBCONTRACTORS,
3 SUPPLIERS AND PROFESSIONAL SERVICE PROVIDERS DURING THE
4 PRECEDING FISCAL YEAR.

5 (3) INITIAL REPORTS UNDER THIS SUBSECTION SHALL BE
6 SUBMITTED TO THE STANDING COMMITTEES BY OCTOBER 1, 2013.

7 § 9608. COMPLIANCE WITH FEDERAL REQUIREMENTS.

8 IF A PROCUREMENT INVOLVES THE EXPENDITURE OF FEDERAL
9 ASSISTANCE OR CONTRACT FUNDS, THE PURCHASING AGENCY SHALL COMPLY
10 WITH FEDERAL LAW AND AUTHORIZED REGULATIONS THAT ARE MANDATORILY
11 APPLICABLE AND THAT ARE NOT PRESENTLY REFLECTED IN 62 PA.C.S.
12 PT. I (RELATING TO COMMONWEALTH PROCUREMENT CODE).

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