
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1600 Session of
2015

INTRODUCED BY MACKENZIE, ACOSTA, BARRAR, BIZZARRO, CORBIN,
D. COSTA, DRISCOLL, FEE, GROVE, A. HARRIS, JOZWIAK, KINSEY,
KNOWLES, MALONEY, McNEILL, MILLARD, MURT, NEILSON, READSHAW,
ROZZI, SCHLOSSBERG, SCHWEYER, THOMAS, WARD, WARNER, WHITE,
COHEN AND GILLEN, SEPTEMBER 29, 2015

REFERRED TO COMMITTEE ON COMMERCE, SEPTEMBER 29, 2015

AN ACT

1 Amending Titles 51 (Military Affairs) and 74 (Transportation) of
2 the Pennsylvania Consolidated Statutes, in veteran-owned
3 small businesses, further providing for definitions, for
4 regulations, for participation goal, for duties of Department
5 of General Services, for bonding and progress payments and
6 for reports; providing for business fee exemption; making
7 editorial changes; in administrative practice and procedure,
8 further providing for diverse business participation; and
9 providing for the status of a veteran-owned small business
10 and a service-disabled veteran-owned small business.

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

13 Section 1. Chapter 96 of Title 51 of the Pennsylvania
14 Consolidated Statutes is amended by adding a subchapter heading
15 to read:

16 SUBCHAPTER A

17 PRELIMINARY PROVISIONS

18 Section 2. Section 9601 of Title 51 is amended to read:

19 § 9601. Definitions.

20 Subject to section 9602 (relating to regulations), the

1 following words and phrases when used in this chapter shall have
2 the meanings given to them in this section unless the context
3 clearly indicates otherwise:

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

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

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

10 ["Service-disabled." Being in possession of:

11 (1) a disability rating letter issued by the United
12 States Department of Veterans Affairs; or

13 (2) a disability determination from the United States
14 Department of Defense.

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

17 (1) a service-disabled veteran or veterans; or

18 (2) if approved by the Department of General Services, a
19 surviving spouse or permanent caregiver of a service-disabled
20 veteran.]

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

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

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

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

30 (2) A reservist or member of the National Guard who

1 completed an initial term of enlistment or qualifying period
2 of service.

3 (3) A reservist or member of the National Guard who was
4 disabled in the line of duty during training.] An individual
5 who served in the United States Armed Forces, including a
6 reserve component or the National Guard, and who was
7 discharged or released from service under conditions other
8 than dishonorable.

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

11 Section 3. Chapter 96 of Title 51 is amended by adding a
12 subchapter heading to read:

13 SUBCHAPTER B

14 PARTICIPATION

15 Section 4. Sections 9602, 9603, 9604, 9605 and 9607 of Title
16 51 are amended to read:

17 § 9602. Regulations.

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

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

29 (c) Antifraud provisions.--The Department of General
30 Services shall establish policy and promulgate regulations

1 establishing antifraud provisions to deter and penalize
2 businesses that are not owned by [those who are service-disabled
3 or by] veterans but who falsely claim that they are in order to
4 receive any action authorized by this [chapter] subchapter.

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

14 § 9603. Participation goal.

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

20 § 9604. Duties of Department of General Services.

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

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

29 (2) Give special publicity to procurement procedures and
30 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 veteran-
6 owned small businesses] for the purpose of encouraging
7 procurement from veteran-owned small businesses.

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

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

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

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

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

29 § 9605. Bonding and progress payments.

30 (a) Bonding.--Notwithstanding 62 Pa.C.S. Pt. I (relating to

1 Commonwealth Procurement Code):

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

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

11 (b) Progress payments.--A purchasing agency may make special
12 provisions for progress payments as it deems reasonably
13 necessary to encourage procurement from veteran-owned small
14 businesses [and service-disabled veteran-owned small
15 businesses].

16 § 9607. Reports.

17 (a) Report to Department of General Services.--By August 15,
18 2013, and each August 15 thereafter, each executive agency and
19 independent agency shall submit an annual report for the period
20 of July 1 to June 30 to the Department of General Services on
21 actual utilization of veteran-owned small businesses [and
22 service-disabled veteran-owned small businesses] as contractors,
23 subcontractors, suppliers and professional service providers.

24 (b) Report to standing committees.--

25 (1) The Department of General Services and each State-
26 affiliated entity shall annually, before October 1, report in
27 writing to the Veterans Affairs and Emergency Preparedness
28 Committee of the Senate and the Veterans Affairs and
29 Emergency Preparedness Committee of the House of
30 Representatives the actual utilization, Statewide and by each

1 purchasing agency, of veteran-owned small businesses [and
2 service-disabled veteran-owned small businesses] during the
3 preceding fiscal year.

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

9 (3) Initial reports under this subsection shall be
10 submitted to the standing committees by October 1, 2013.

11 Section 5. Chapter 96 of Title 51 is amended by adding a
12 subchapter to read:

13 SUBCHAPTER C

14 BUSINESS FEE EXEMPTION

15 Sec.

16 9610. Definitions.

17 9611. Exemption.

18 § 9610. Definitions.

19 As used in this subchapter, the following words and phrases
20 shall have the meanings given to them in this section unless the
21 context clearly indicates otherwise:

22 "Business fee." A fee required to be paid to the
23 Commonwealth or an instrumentality of the Commonwealth for
24 starting or opening a business within this Commonwealth.

25 § 9611. Exemption.

26 (a) Payment.--A veteran-owned small business shall be exempt
27 from the payment of a business fee.

28 (b) Proof.--A veteran must provide the department with proof
29 of the veteran's status using any of the following:

30 (1) A copy of a Federal DD-214 form.

1 (2) A copy of a Federal NGB-22 form.

2 (3) A valid Federal Veterans' Administration card.

3 (4) An identification card issued under 75 Pa.C.S. §
4 1510(a.1) (relating to issuance and content of driver's
5 license).

6 (c) Status.--The Department of State, in consultation with
7 the department, shall determine an applicant's status as a
8 veteran in accordance with this section.

9 (d) Offenses.--

10 (1) A person who fraudulently obtains a business fee
11 exemption commits a misdemeanor of the third degree.

12 (2) A person assigning, transferring or attempting to
13 assign or transfer a business fee exemption or using or
14 attempting to use a business fee exemption contrary to this
15 section commits a misdemeanor of the third degree.

16 (e) Reporting.--The Department of State shall annually
17 determine the total number of business fee exemptions issued
18 under this section.

19 Section 6. The definitions of "diverse business" and
20 "service-disabled veteran-owned small business" in section
21 303(b) of Title 74 are amended to read:

22 § 303. Diverse business participation.

23 * * *

24 (b) Definitions.--As used in this section, the following
25 words and phrases shall have the meanings given to them in this
26 subsection:

27 * * *

28 "Diverse business." A disadvantaged business, minority-owned
29 or women-owned business [or service-disabled veteran-owned] or
30 veteran-owned small business that has been certified by a third-

1 party certifying organization.

2 * * *

3 ["Service-disabled veteran-owned small business." As defined
4 in 51 Pa.C.S. § 9601 (relating to definitions).]

5 * * *

6 Section 7. The amendment of 51 Pa.C.S. §§ 9601, 9602, 9603,
7 9604, 9605 and 9607 and the definitions of "diverse business"
8 and "service-disabled veteran-owned small business" in 74
9 Pa.C.S. § 303(b) shall not affect nor impair the status of any
10 of the following under 51 Pa.C.S. Ch. 96 or 74 Pa.C.S.:

11 (1) A veteran-owned small business.

12 (2) A service-disabled veteran-owned small business.

13 Section 8. This act shall take effect in 60 days.