

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1712 Session of 2021

INTRODUCED BY STRUZZI, RIGBY, MASSER, DAVANZO, SMITH, CIRESI, SAINATO, COOK, OWLETT, E. NELSON, O'NEAL, LEWIS DELROSSO, JAMES AND C. WILLIAMS, JULY 8, 2021

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, FEBRUARY 9, 2022

AN ACT

~~1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated <--
2 Statutes, in diverse and disadvantaged businesses, further
3 providing for definitions, for woman owned business,
4 minority owned business or veteran owned business and
5 providing for HUB zone business procurement.~~

6 AMENDING TITLE 62 (PROCUREMENT) OF THE PENNSYLVANIA CONSOLIDATED <--
7 STATUTES, IN DIVERSE AND DISADVANTAGED BUSINESSES, FURTHER
8 PROVIDING FOR DEFINITIONS AND FOR WOMAN-OWNED BUSINESS,
9 MINORITY-OWNED BUSINESS OR VETERAN-OWNED BUSINESS AND
10 ESTABLISHING THE HUB ZONE BUSINESS PROCUREMENT PROGRAM.

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

13 ~~Section 1. The definition of "diverse and disadvantaged <--
14 businesses" in section 2201 of Title 62 of the Pennsylvania
15 Consolidated Statutes is amended and the section is amended by
16 adding definitions to read:~~

17 ~~§ 2201. Definitions.~~

18 ~~The following words and phrases when used in this chapter
19 shall have the meanings given to them in this section unless the
20 context clearly indicates otherwise:~~

21 ~~"Diverse and disadvantaged businesses." A woman owned~~

1 ~~business, a minority owned business [or], a veteran owned~~
2 ~~business or a HUB zone business.~~

3 ~~"HUB zone." A historically under utilized business zone.~~

4 ~~"HUB zone business." A for profit business located in a HUB~~
5 ~~zone of this Commonwealth that satisfies the qualification~~
6 ~~criteria specified at 13 CFR Pt. 126, Subpt. B (relating to~~
7 ~~requirements to be a certified HUBZone small business concern).~~

8 * * *

9 Section 2. Section 2202 heading and (c) of Title 62 are
10 amended to read:

11 § 2202. ~~[Woman owned business, minority owned business or~~
12 ~~veteran owned business] Diverse and disadvantaged~~
13 ~~businesses.~~

14 * * *

15 (c) Lists. The department shall compile, maintain and make
16 available source lists of businesses verified by the department
17 as a diverse or disadvantaged business for the purpose of
18 encouraging procurement from those businesses and for the
19 purpose of complying with section 2203 (relating to HUB zone
20 business procurement).

21 * * *

22 Section 3. Title 62 is amended by adding a section to read:

23 § 2203. HUB zone business procurement.

24 Within six months of the effective date of this section, each
25 Commonwealth agency shall ensure that at least 40% of the dollar
26 amount of all contracts entered into by the Commonwealth agency
27 are awarded to HUB zone businesses.

28 Section 4. This act shall take effect in 60 days.

29 SECTION 1. THE DEFINITION OF "DIVERSE AND DISADVANTAGED
30 BUSINESSES" IN SECTION 2201 OF TITLE 62 OF THE PENNSYLVANIA

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1 CONSOLIDATED STATUTES IS AMENDED AND THE SECTION IS AMENDED BY
2 ADDING DEFINITIONS TO READ:

3 § 2201. DEFINITIONS.

4 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
5 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
6 CONTEXT CLEARLY INDICATES OTHERWISE:

7 "CONTRACT-SPECIFIC GOAL." A GOAL ESTABLISHED UNDER SECTION
8 2203 (RELATING TO HUB ZONE BUSINESS PROCUREMENT PROGRAM) FOR USE
9 OF HUB ZONE BUSINESSES ON A SPECIFIC PROCUREMENT.

10 "DIVERSE AND DISADVANTAGED BUSINESSES." A WOMAN-OWNED
11 BUSINESS, A MINORITY-OWNED BUSINESS [OR], A VETERAN-OWNED
12 BUSINESS OR A HUB ZONE BUSINESS.

13 "GOOD-FAITH EFFORTS." THE PRACTICES OR ACTIVITIES INSTITUTED
14 BY A BIDDER OR OFFEROR TO PROMOTE AND ENSURE PARTICIPATION BY
15 HUB ZONE BUSINESSES IN A PROCUREMENT IN ORDER TO MEET A
16 CONTRACT-SPECIFIC GOAL.

17 "HUB ZONE." A HISTORICALLY UNDERUTILIZED BUSINESS ZONE.

18 "HUB ZONE BUSINESS." A FOR-PROFIT BUSINESS LOCATED IN A HUB
19 ZONE OF THIS COMMONWEALTH THAT SATISFIES THE QUALIFICATION
20 CRITERIA SPECIFIED AT 13 CFR PT. 126 SUBPT. B (RELATING TO
21 REQUIREMENTS TO BE A CERTIFIED HUBZONE SMALL BUSINESS CONCERN).

22 "HUB ZONE PROGRAM." THE HUB ZONE BUSINESS PROCUREMENT
23 PROGRAM ESTABLISHED UNDER SECTION 2203(A).

24 * * *

25 "UTILIZATION SCHEDULE." A DOCUMENT, SUBMITTED BY A BIDDER OR
26 OFFEROR AS PART OF A BID OR PROPOSAL, IN WHICH A BIDDER OR
27 OFFEROR OUTLINES HUB ZONE BUSINESS PARTICIPATION FOR A CONTRACT
28 AND IDENTIFIES THE DOLLAR VALUE OR PERCENTAGES OF THE WORK TO BE
29 PERFORMED.

30 * * *

1 SECTION 2. SECTION 2202 HEADING AND (C) OF TITLE 62 ARE
2 AMENDED TO READ:

3 § 2202. [~~WOMAN-OWNED BUSINESS, MINORITY-OWNED BUSINESS OR~~
4 ~~VETERAN-OWNED BUSINESS~~] DIVERSE AND DISADVANTAGED
5 BUSINESSES.

6 * * *

7 (C) LISTS.--THE DEPARTMENT SHALL COMPILE, MAINTAIN AND MAKE
8 AVAILABLE SOURCE LISTS OF BUSINESSES VERIFIED BY THE DEPARTMENT
9 AS A DIVERSE OR DISADVANTAGED BUSINESS FOR THE PURPOSE OF
10 ENCOURAGING PROCUREMENT FROM THOSE BUSINESSES AND FOR THE
11 PURPOSE OF COMPLYING WITH SECTION 2203 (RELATING TO HUB ZONE
12 BUSINESS PROCUREMENT PROGRAM).

13 * * *

14 SECTION 3. TITLE 62 IS AMENDED BY ADDING A SECTION TO READ:
15 § 2203. HUB ZONE BUSINESS PROCUREMENT PROGRAM.

16 (A) ESTABLISHMENT.--THE HUB ZONE BUSINESS PROCUREMENT
17 PROGRAM IS ESTABLISHED WITHIN THE DEPARTMENT FOR THE PURPOSE OF
18 ENSURING THAT EXECUTIVE AGENCIES AND INDEPENDENT AGENCIES FOR
19 WHICH THE DEPARTMENT ACTS AS PURCHASING AGENCY ENTER INTO
20 CONTRACTS WITH HUB ZONE BUSINESSES AS PROVIDED UNDER THIS
21 SECTION. THE DEPARTMENT SHALL ADMINISTER THE HUB ZONE PROGRAM.
22 THE DEPARTMENT'S DUTIES SHALL INCLUDE:

23 (1) FORMULATING, PROPOSING AND IMPLEMENTING POLICY AND
24 REGULATIONS FOR THE DEVELOPMENT, IMPLEMENTATION AND
25 MONITORING OF THE HUB ZONE PROGRAM.

26 (2) PROVIDING INFORMATION AND ASSISTANCE TO HUB ZONE
27 BUSINESSES RELATING TO THE HUB ZONE PROGRAM, INCLUDING
28 SPECIAL TRAINING PROGRAMS FOR HUB ZONE BUSINESSES TO LEARN
29 HOW TO DO BUSINESS WITH EXECUTIVE AGENCIES AND INDEPENDENT
30 AGENCIES FOR WHICH THE DEPARTMENT ACTS AS PURCHASING AGENCY

1 AND SERVING AS A LIAISON TO COMMUNITY, CONTRACTORS,
2 PROFESSIONALS AND SUPPLIER GROUPS, ASSOCIATIONS AND
3 ORGANIZATIONS.

4 (3) ENSURING THAT HUB ZONE BUSINESSES ARE SOLICITED ON
5 PROCUREMENTS FOR WHICH THE HUB ZONE BUSINESSES MAY BE SUITED.

6 (4) ESTABLISHING CONTRACT-SPECIFIC GOALS, IN
7 COLLABORATION WITH THE PURCHASING AGENCY, BASED UPON RELEVANT
8 FACTORS, INCLUDING THE AVAILABILITY OF HUB ZONE BUSINESSES TO
9 MEET THE SCOPE OF WORK OF THE PROCUREMENT.

10 (5) IN COLLABORATION WITH THE PURCHASING AGENCY,
11 REVIEWING UTILIZATION SCHEDULES, CONSIDERING REQUESTS FOR
12 WAIVERS OF CONTRACT-SPECIFIC GOALS BASED UPON A SHOWING OF
13 GOOD-FAITH EFFORTS AND EVALUATING THE EXTENT TO WHICH
14 CONTRACT-SPECIFIC GOALS WERE ACHIEVED.

15 (6) MONITORING CONTRACTS TO EVALUATE COMPLIANCE WITH
16 CONTRACT-SPECIFIC GOALS AND COMMITMENTS.

17 (7) RECEIVING, REVIEWING AND ACTING UPON COMPLAINTS AND
18 SUGGESTIONS CONCERNING THE HUB ZONE PROGRAM.

19 (8) EVALUATING THE EFFECTIVENESS AND UTILITY OF THE HUB
20 ZONE PROGRAM.

21 (B) HUB ZONE BUSINESS PROCUREMENT.--THE FOLLOWING SHALL

22 APPLY:

23 (1) WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS
24 SECTION, EACH EXECUTIVE AGENCY AND INDEPENDENT AGENCY FOR
25 WHICH THE DEPARTMENT ACTS AS PURCHASING AGENCY SHALL
26 ESTABLISH CONTRACT-SPECIFIC GOALS THAT ENSURE EACH CONTRACT
27 ENTERED INTO BY THE PURCHASING AGENCY GARNERS:

28 (I) TEN PERCENT PARTICIPATION FROM HUB ZONE
29 BUSINESSES ON CONTRACTS TOTALING AT LEAST \$100,000 AND
30 NOT MORE THAN \$750,000.

1 (II) FIFTEEN PERCENT PARTICIPATION FROM HUB ZONE
2 BUSINESSES ON CONTRACTS TOTALING MORE THAN \$750,000.

3 (2) PARAGRAPH (1) SHALL NOT APPLY TO CONTRACTS:

4 (I) WHERE NO QUALIFIED HUB ZONE BUSINESS EXISTS; OR

5 (II) WHICH HAVE RECEIVED A WAIVER UNDER SUBSECTION

6 (C).

7 (3) TO SATISFY REQUIREMENTS UNDER PARAGRAPH (1), A
8 PURCHASING AGENCY MAY AWARD CONTRACTS DIRECTLY TO PRIME HUB
9 ZONE BUSINESS CONTRACTORS OR INDIRECTLY TO HUB ZONE BUSINESS
10 SUBCONTRACTORS.

11 (C) REQUEST FOR A FULL OR PARTIAL WAIVER AND GOOD-FAITH
12 EFFORTS.--NOTWITHSTANDING ANY PROVISION OF THIS TITLE, BIDDERS
13 OR OFFERORS MAY REQUEST A PARTIAL OR FULL WAIVER OF A CONTRACT-
14 SPECIFIC GOAL FOR HUB ZONE BUSINESS PARTICIPATION. A BIDDER OR
15 OFFEROR REQUESTING A PARTIAL OR FULL WAIVER SHALL SUBMIT, IN
16 WRITING, A REPORT DETAILING EFFORTS TO MEET THE CONTRACT-
17 SPECIFIC GOAL AS REQUIRED BY THE SOLICITATION. IN REVIEWING A
18 BIDDER'S OR OFFEROR'S WRITTEN REQUEST FOR A PARTIAL OR FULL
19 WAIVER OF A CONTRACT-SPECIFIC GOAL, THE PURCHASING AGENCY, BASED
20 ON THE RECOMMENDATION OF THE DEPARTMENT, SHALL DETERMINE IF A
21 BIDDER OR OFFEROR HAS MADE GOOD-FAITH EFFORTS TO MEET THE
22 CONTRACT-SPECIFIC GOAL AND TO WHAT EXTENT THE WAIVER REQUEST
23 SHOULD BE GRANTED. IN DETERMINING IF A BIDDER OR OFFEROR HAS
24 MADE GOOD-FAITH EFFORTS, THE PURCHASING AGENCY AND THE
25 DEPARTMENT MAY CONSIDER LEVELS OF PARTICIPATION BY HUB ZONE
26 BUSINESSES BY OTHER BIDDERS OR OFFERORS.

27 (D) COMPLIANCE.--THE DEPARTMENT SHALL PERFORM COMPLIANCE
28 REVIEWS AND MONITOR CONTRACTS WITH HUB ZONE BUSINESSES ON A
29 MONTHLY BASIS.

30 (E) PAYMENT VERIFICATION REPORTS.--A PURCHASING AGENCY SHALL

1 SUBMIT PAYMENT VERIFICATION REPORTS TO THE DEPARTMENT TO ASSIST
2 WITH MONITORING COMPLIANCE AND TO DETERMINE IF THE PRIME
3 CONTRACTOR MET THE PRIME CONTRACTOR'S OVERALL CONTRACT-SPECIFIC
4 GOAL AND ANY SUBGOALS THAT WERE ESTABLISHED FOR THE CONTRACT.

5 SECTION 4. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.