
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 754 Session of
2019

INTRODUCED BY BARTOLOTTA, STREET, COSTA, YUDICHAK, MENSCH,
STEFANO AND J. WARD, JUNE 11, 2019

REFERRED TO STATE GOVERNMENT, JUNE 11, 2019

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, in small and disadvantaged businesses, further
3 providing for policy, for definitions, for regulations, for
4 duties of department, for bonding and progress payments and
5 for report to General Assembly and providing for small
6 business reserve program.

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

9 Section 1. The heading of Chapter 21 and section 2101 of
10 Title 62 of the Pennsylvania Consolidated Statutes are amended
11 to read:

12 CHAPTER 21

13 SMALL AND [DISADVANTAGED] DIVERSE BUSINESSES

14 § 2101. Policy.

15 The policy of this Commonwealth is to assist small and
16 [disadvantaged] diverse businesses in learning how to do
17 business with Commonwealth agencies. The department shall
18 implement this policy in accordance with regulations promulgated
19 by the department.

20 Section 2. The definition of "disadvantaged business" in

1 section 2102 of Title 62 is amended and the section is amended
2 by adding definitions to read:

3 § 2102. Definitions.

4 Subject to section 2103 (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 ["Disadvantaged business." A small business which is owned
9 or controlled by a majority of persons, not limited to members
10 of minority groups, who have been deprived of the opportunity to
11 develop and maintain a competitive position in the economy
12 because of social disadvantages.]

13 "Diverse and disadvantaged businesses." As defined in
14 section 2201 (relating to definitions).

15 "Diverse business." A department-verified business,
16 including, but not limited to, a service-disabled veteran-owned
17 business, veteran-owned business, women-owned business or
18 minority-owned business which has in place a diversity plan for
19 vendors and subcontractors.

20 "Service-disabled." As defined in 51 Pa.C.S. § 9601
21 (relating to definitions).

22 "Service-disabled veteran-owned small business." As defined
23 in 51 Pa.C.S. § 9601.

24 * * *

25 "Small diverse business." A business which is both a diverse
26 business and a small business.

27 "Veteran." As defined in 51 Pa.C.S. § 9601.

28 "Veteran-owned small business." As defined in 51 Pa.C.S. §
29 9601.

30 Section 3. Sections 2103, 2104, 2105 and 2107 of Title 62

1 are amended to read:

2 § 2103. Regulations.

3 The department shall establish policy for executive and those
4 independent agencies for which the department acts as purchasing
5 agency and may promulgate regulations establishing detailed
6 definitions of the words and phrases defined in [section 2102]
7 sections 2102 (relating to definitions) and 2201 (relating to
8 definitions) using, in addition to the criteria set forth in
9 [section 2102] sections 2102 and 2201, other criteria as it
10 deems appropriate, including the number of employees and the
11 dollar volume of business. The policy shall give priority for
12 procurement to small diverse businesses. However, if there are
13 no small diverse businesses available to fulfill the procurement
14 requirements or the bids submitted by small diverse businesses
15 exceed an amount that is 125% of the budgeted amount, the
16 department may solicit bids from diverse and disadvantaged
17 business as defined and verified by the department in accordance
18 with sections 2201 and 2202 (relating to woman-owned business,
19 minority-owned business or veteran-owned business). State-
20 affiliated entities shall implement the policy for their
21 procurement programs.

22 § 2104. Duties of department.

23 The department shall have the following duties:

24 (1) Where feasible, provide appropriate staff who shall
25 be responsible to the department and who shall serve within
26 designated Commonwealth agencies to assist small [and
27 disadvantaged] diverse businesses in this Commonwealth in
28 learning how to do business with Commonwealth agencies.

29 (2) Give special publicity to procurement procedures and
30 issue special publications designed to assist small [and

1 disadvantaged] diverse businesses in learning how to do
2 business with Commonwealth agencies.

3 (3) Compile, maintain and make available source lists of
4 small [and disadvantaged] diverse businesses and diverse and
5 disadvantaged businesses for the purpose of encouraging
6 procurement from small diverse businesses or diverse and
7 disadvantaged businesses.

8 (4) Include small diverse businesses and diverse and
9 disadvantaged businesses on solicitation mailing lists.

10 (5) Assure that small [and disadvantaged] diverse
11 businesses are solicited on each procurement for which the
12 businesses may be suited. If there are not any small diverse
13 businesses suited then open the solicitation to diverse
14 businesses.

15 (6) Develop special training programs to assist small
16 [and disadvantaged] diverse businesses in learning how to do
17 business with Commonwealth agencies.

18 (7) Assure that the participation by diverse businesses
19 is, if appropriate, factored into the evaluation of proposals
20 for supplies, services or construction when a purchasing
21 agency uses the competitive sealed proposals method under
22 section 513 (relating to competitive sealed proposals).

23 (8) Verify the current certification of a business
24 seeking diverse verification of diverse businesses.

25 § 2105. Bonding and progress payments.

26 (a) Bonding.--Notwithstanding other provisions of this part,
27 a purchasing agency may reduce the level or change the types of
28 bonding normally required or accept alternative forms of
29 security to the extent reasonably necessary to encourage
30 procurement from small [and disadvantaged] diverse businesses.

1 (b) Progress payments.--A purchasing agency may make special
2 provisions for progress payments as it deems reasonably
3 necessary to encourage procurement from small [and
4 disadvantaged] diverse businesses.

5 (c) Exemption.--For contracts under \$25,000, a small diverse
6 business shall be exempt from the bonding requirements under
7 subsection (a).

8 § 2107. Report to General Assembly.

9 The department shall annually, before October 1, report in
10 writing to the General Assembly concerning the awarding of
11 contracts to small [and disadvantaged] diverse businesses and
12 diverse businesses during the preceding fiscal year on the
13 actual utilization of small diverse businesses or diverse
14 businesses as contractors and subcontractors. The report shall
15 include a list of all small [and disadvantaged] diverse
16 businesses or diverse businesses that participated as
17 contractors, subcontractors or suppliers during the preceding
18 fiscal year. [for contracts if the number of contractors under a
19 previously existing contract for the same supply or service is
20 reduced to a single contractor or reduced by more than 50% of
21 the number existing on September 30, 2003. In preparing the
22 report, the department shall verify whether commitments made to
23 small and disadvantaged businesses in the course of awarding
24 these contracts have been maintained.]

25 Section 4. Title 62 is amended by adding a section to read:

26 § 2109. Small business reserve program.

27 The department shall establish a small business reserve
28 program for the purpose of increasing economic opportunities for
29 small businesses and affording small businesses, including small
30 diverse businesses, veteran-owned businesses and service-

1 disabled veteran-owned businesses, the opportunity to bid on
2 Commonwealth agency contracts without competing with larger
3 businesses.

4 Section 5. This act shall take effect in 60 days.