

2013 -- H 5625

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS

Introduced By: Representatives Fellela, Gallison, Azzinaro, Messier, and Serpa

Date Introduced: February 27, 2013

Referred To: House Finance

(Governor)

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 37 of the General Laws entitled "PUBLIC PROPERTY AND
2 WORKS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 2.5

4 VETERAN-OWNED BUSINESS ENTERPRISES

5 **37-2.5-1. Purpose.** -- The purposes of this chapter are to honor the courageous members
6 of the military for their service and to assist them by increasing opportunities for active duty and
7 veteran-owned small businesses to participate in state agency contracts and subcontracts, and to
8 carry out the state's policy of supporting the fullest possible participation of firms owned and
9 controlled by individuals actively serving or veterans in state funded and state directed public
10 construction programs and projects and in state purchases of goods and services. This includes
11 assisting such businesses throughout the life of contracts in which they participate.

12 **37-14.1-2. Applicability.** -- This chapter shall apply to any and all state purchasing,
13 including, but not limited to, the procurement of goods, services, construction projects, or
14 contracts funded in whole or in part by state funds, or funds which, in accordance with a federal
15 grant or otherwise, the state expends or administers or in which the state is a signatory to the
16 construction contract.

17 **37-14.1-3. Definitions.** -- (a) "Compliance" means the condition existing when a
18 contractor has met and implemented the requirements of this chapter.

19 (b) "Contract" means a mutually binding legal relationship or any modification thereof

1 obligating the seller to furnish supplies or services, including construction, and the buyer to pay
2 for them. For purposes of this chapter, a lease is a contract.

3 (c) "Contractor" means one who participates, through a contract or subcontract, in any
4 procurement or program covered by this chapter and includes lessees and material suppliers.

5 (d) "Veteran" shall mean all forms of military service members that are defined in chapter
6 30-22 of the general laws.

7 (e) "Veteran-owned small business enterprise" means a business that has been verified by
8 the United States department of veterans' affairs in accordance with 38 CFR part 74, and may
9 include a business owned by a surviving spouse or permanent caregiver of a veteran as provided
10 by 38 CFR part 74.

11 (f) "Noncompliance" means the condition existing when a recipient or contractor has
12 failed to implement the requirements of this chapter.

13 **37-14.1-4. Veteran-owned small business enterprise participation. --** The state annual
14 goal for veteran-owned small business enterprises to participate in state contracts shall be no less
15 than three percent (3%) of the total value of all contracts available to businesses in each fiscal
16 year. In order to achieve this goal veteran-owned small business enterprises shall be included in
17 all procurements and construction projects under this chapter and shall be awarded a minimum of
18 three percent (3%) of the dollar value of the entire procurement or project. The director of the
19 department of administration is further authorized to establish by rules and regulation formulas
20 for giving veteran-owned small business enterprises a preference in contract and subcontract
21 awards.

22 **37-14.1-5. Establishment of criteria, guidelines and certification. --** (a) The director of
23 the department of administration shall in consultation with the division of veterans' affairs
24 establish, by rule and regulations adopted in accordance with chapter 35 of title 42, standards
25 which shall determine whether a construction project is covered by this chapter, compliance
26 formulas, procedures for implementation, and procedures for enforcement which are not
27 inconsistent with 49 CFR 23 of the federal regulations. As to Rhode Island department of
28 transportation contracts, the director of administration may delegate this authority to the director
29 of transportation.

30 (b) The director of the department of administration may establish additional criteria to
31 certify veteran-owned small business enterprises and maintain and update publicly accessible lists
32 of veteran-owned small business enterprises that are certified by the department.

33 **37-14.1-6. Sanctions. --** (a) The director of the department of administration shall have
34 the power to impose sanctions upon contractors not in compliance with this chapter and shall

1 include, but not be limited to:

2 (1) Suspension of payments;

3 (2) Termination of the contract;

4 (3) Recovery by the state of ten percent (10%) of the contract award price as liquidated
5 damages; and

6 (4) Denial of right to participate in future projects for up to three (3) years.

7 (b) As to Rhode Island department of transportation contracts, the director of the
8 department of administration may delegate this authority to the director of transportation.

9 **37-14.1-7. Reporting.** -- By August 1, 2014 and each August 1st thereafter, the
10 department of administration shall submit an annual report to the governor, speaker of the house,
11 senate president and associate director of veterans' affairs for the period from July 1 to June 30 on
12 the actual utilization of veteran-owned small business enterprises as contractors, subcontractors,
13 suppliers and professional service providers for the state. The annual report shall include a list of
14 all veteran-owned small businesses that participated as contractors, subcontractors, suppliers and
15 professional service providers for the state during the previous fiscal year.

16 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
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- 1 This act would create a veteran's preference in the issuance of state contracts.
- 2 This act would take effect upon passage.

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