

2017 -- H 5090

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS

Introduced By: Representatives Lancia, Vella-Wilkinson, Mendonca, McLaughlin, and  
Marshall

Date Introduced: January 12, 2017

Referred To: House Finance

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 14.3

4 VETERAN-OWNED BUSINESS ENTERPRISES

5 **37-14.3-1. Purpose.**

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

13 **37-14.3-2. Applicability.**

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

18 **37-14.3-3. Definitions.**

19 (a) "Compliance" means the condition existing when a contractor has met and

1 implemented the requirements of this chapter.

2 (b) "Contract" means a mutually binding legal relationship or any modification thereof  
3 obligating the seller to furnish supplies or services, including construction, and the buyer to pay  
4 for them. For purposes of this chapter, a lease is a contract.

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

7 (d) "Veteran" shall mean all forms of military service members that are defined in chapter  
8 22 of title 30.

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

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

15 **37-14.3-4. Veteran-owned small business enterprise participation.**

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

24 **37-14.3-5. Establishment of criteria, guidelines and certification.**

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

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

34 **37-14.3-6. Sanctions.**

1           (a) The director of the department of administration shall have the power to impose  
2 sanctions upon contractors not in compliance with this chapter and shall include, but not be  
3 limited to:

4           (1) Suspension of payments;

5           (2) Termination of the contract;

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

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

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

11           **37-14.3-7. Reporting.**

12           By August 1, 2017 and each August 1 thereafter, the department of administration shall  
13 submit an annual report to the governor, speaker of the house, senate president and associate  
14 director of veterans' affairs for the period from July 1 to June 30 on the actual utilization of  
15 veteran-owned small business enterprises as contractors, subcontractors, suppliers and  
16 professional service providers for the state. The annual report shall include a list of all veteran-  
17 owned small businesses that participated as contractors, subcontractors, suppliers and  
18 professional service providers for the state during the previous fiscal year.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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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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