



General Assembly

January Session, 2019

Raised Bill No. 862

LCO No. 3795



Referred to Committee on VETERANS' AFFAIRS

Introduced by:
(VA)

AN ACT CONCERNING VETERAN-OWNED BUSINESSES IN STATE CONTRACTING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 4a-59 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2019*):

4 (c) All open market orders or contracts shall be awarded to (1) the
5 lowest responsible qualified bidder, the qualities of the articles to be
6 supplied, their conformity with the specifications, their suitability to
7 the requirements of the state government and the delivery terms being
8 taken into consideration and, at the discretion of the Commissioner of
9 Administrative Services, life-cycle costs and trade-in or resale value of
10 the articles may be considered where it appears to be in the best
11 interest of the state, (2) the highest scoring bidder in a multiple criteria
12 bid, in accordance with the criteria set forth in the bid solicitation for
13 the contract, or (3) the proposer whose proposal is deemed by the
14 awarding authority to be the most advantageous to the state, in
15 accordance with the criteria set forth in the request for proposals,

16 including price and evaluation factors. Notwithstanding any provision
17 of the general statutes to the contrary, each state agency awarding a
18 contract through competitive negotiation shall include price as an
19 explicit factor in the criteria in the request for proposals and for the
20 contract award. In considering past performance of a bidder for the
21 purpose of determining the "lowest responsible qualified bidder" or
22 the "highest scoring bidder in a multiple criteria bid", the
23 commissioner shall evaluate the skill, ability and integrity of the
24 bidder in terms of the bidder's fulfillment of past contract obligations
25 and the bidder's experience or lack of experience in delivering
26 supplies, materials, equipment or contractual services of the size or
27 amount for which bids have been solicited. In determining the lowest
28 responsible qualified bidder for the purposes of this section, the
29 commissioner may give a price preference of up to ten per cent for (A)
30 the purchase of goods made with recycled materials or the purchase of
31 recyclable or remanufactured products if the commissioner determines
32 that such preference would promote recycling or remanufacturing. As
33 used in this subsection, "recyclable" means able to be collected,
34 separated or otherwise recovered from the solid waste stream for
35 reuse, or for use in the manufacture or assembly of another package or
36 product, by means of a recycling program which is reasonably
37 available to at least seventy-five per cent of the state's population,
38 "remanufactured" means restored to its original function and thereby
39 diverted from the solid waste stream by retaining the bulk of
40 components that have been used at least once and by replacing
41 consumable components and "remanufacturing" means any process by
42 which a product is remanufactured; (B) the purchase of motor vehicles
43 powered by a clean alternative fuel; (C) the purchase of motor vehicles
44 powered by fuel other than a clean alternative fuel and conversion
45 equipment to convert such motor vehicles allowing the vehicles to be
46 powered by either the exclusive use of clean alternative fuel or dual
47 use of a clean alternative fuel and a fuel other than a clean alternative
48 fuel. As used in this subsection, "clean alternative fuel" means natural
49 gas, electricity, hydrogen or propane when used as a motor vehicle
50 fuel; or (D) the purchase of goods or services from a micro business,

51 except that, in the case of a veteran-owned micro business, the
52 commissioner may give a price preference of up to fifteen per cent.
53 Additionally, in determining the lowest responsible qualified bidder
54 for the purposes of this section, the commissioner shall give a price
55 preference of ten per cent for the purchase of goods or services from a
56 veteran-owned business. As used in this subsection, "micro business"
57 means a business with gross revenues not exceeding three million
58 dollars in the most recently completed fiscal year, ["veteran-owned
59 micro business"] "veteran-owned" means [a micro business of which]
60 at least fifty-one per cent of [the] ownership is held by one or more
61 veterans and "veteran" means any person (i) honorably discharged
62 from, or released under honorable conditions from active service in,
63 the armed forces, as defined in section 27-103, or (ii) with a qualifying
64 condition, as defined in said section, who has received a discharge
65 other than bad conduct or dishonorable from active service in the
66 armed forces. All other factors being equal, preference shall be given to
67 supplies, materials and equipment produced, assembled or
68 manufactured in the state and services originating and provided in the
69 state. Except with regard to contracts that may be paid for with United
70 States Department of Transportation funds, if any such bidder refuses
71 to accept, within ten days, a contract awarded to such bidder, such
72 contract may be awarded to the next lowest responsible qualified
73 bidder or the next highest scoring bidder in a multiple criteria bid,
74 whichever is applicable, and so on until such contract is awarded and
75 accepted. Except with regard to contracts that may be paid for with
76 United States Department of Transportation funds, if any such
77 proposer refuses to accept, within ten days, a contract awarded to such
78 proposer, such contract shall be awarded to the next most
79 advantageous proposer, and so on until the contract is awarded and
80 accepted. There shall be a written evaluation made of each bid. This
81 evaluation shall identify the vendors and their respective costs and
82 prices, document the reason why any vendor is deemed to be
83 nonresponsive and recommend a vendor for award. A contract valued
84 at one million dollars or more shall be awarded to a bidder other than
85 the lowest responsible qualified bidder or the highest scoring bidder in

86 a multiple criteria bid, whichever is applicable, only with written
87 approval signed by the Commissioner of Administrative Services and
88 by the Comptroller. The commissioner shall post on the department's
89 Internet web site all awards made pursuant to the provisions of this
90 section.

91 Sec. 2. Subsection (a) of section 4a-60g of the general statutes is
92 amended by adding subdivisions (16) and (17) as follows (*Effective*
93 *October 1, 2019*):

94 (NEW) (16) "Veteran-owned contractor" means any contractor,
95 subcontractor, manufacturer, service company or nonprofit
96 corporation of which at least fifty-one per cent of the ownership is held
97 by one or more veterans.

98 (NEW) (17) "Veteran" means any person (A) honorably discharged
99 from, or released under honorable conditions from active service in,
100 the armed forces, as defined in section 27-103, or (B) with a qualifying
101 condition, as defined in said section, who has received a discharge
102 other than bad conduct or dishonorable from active service in the
103 armed forces.

104 Sec. 3. Subdivision (2) of subsection (b) of section 4a-60g of the
105 general statutes is repealed and the following is substituted in lieu
106 thereof (*Effective October 1, 2019*):

107 (2) (A) Notwithstanding any provisions of the general statutes, and
108 except as set forth in this section, the head of each awarding agency
109 shall set aside in each fiscal year, for award to small contractors, on the
110 basis of competitive bidding procedures, contracts or portions of
111 contracts for the construction, reconstruction or rehabilitation of public
112 buildings, the construction and maintenance of highways and the
113 purchase of goods and services. The total value of such contracts or
114 portions thereof to be set aside by each such agency shall be at least
115 twenty-five per cent of the total value of all contracts let by the head of
116 such agency in each fiscal year, provided a contract for any goods or
117 services which have been determined by the Commissioner of

118 Administrative Services to be not customarily available from or
119 supplied by small contractors shall not be included. Contracts or
120 portions thereof having a value of not less than twenty-five per cent of
121 the total value of all contracts or portions thereof to be set aside shall
122 be reserved for awards to minority business enterprises.

123 (B) Notwithstanding any provisions of the general statutes, and
124 except as set forth in this section, the head of each awarding agency
125 shall set aside in each fiscal year, for award to veteran-owned
126 contractors, on the basis of competitive bidding procedures, contracts
127 or portions of contracts for the construction, reconstruction or
128 rehabilitation of public buildings, the construction and maintenance of
129 highways and the purchase of goods and services. The total value of
130 such contracts or portions thereof to be set aside by each such agency
131 shall be five per cent of the total value of all contracts let by the head of
132 such agency in each fiscal year, provided a contract for any goods or
133 services which have been determined by the Commissioner of
134 Administrative Services to be not customarily available from or
135 supplied by veteran-owned contractors shall not be included.

136 Sec. 4. Subsection (e) of section 4a-60g of the general statutes is
137 repealed and the following is substituted in lieu thereof (*Effective*
138 *October 1, 2019*):

139 (e) The awarding authority shall require that a contractor or
140 subcontractor awarded a contract or a portion of a contract under this
141 section perform not less than thirty per cent of the work with the
142 workforces of such contractor or subcontractor and shall require that
143 not less than fifty per cent of the work be performed by contractors or
144 subcontractors eligible for awards under this section. A contractor
145 awarded a contract or a portion of a contract under this section shall
146 not subcontract with any person with whom the contractor is affiliated.
147 No person who is affiliated with another person shall be eligible for
148 awards under this section if both affiliated persons considered together
149 would not qualify as [a small contractor or a minority business
150 enterprise under subsection (a) of this section.] a small contractor,

151 minority business enterprise or veteran-owned contractor under
152 subsection (a) of this section. The awarding authority shall require that
153 a contractor awarded a contract pursuant to this section submit, in
154 writing, an explanation of any subcontract to such contract that is
155 entered into with any person that is not eligible for the award of a
156 contract pursuant to this section, prior to the performance of any work
157 pursuant to such subcontract.

158 Sec. 5. Subsection (g) of section 4a-60g of the general statutes is
159 repealed and the following is substituted in lieu thereof (*Effective*
160 *October 1, 2019*):

161 (g) The awarding authority or the Commissioner of Administrative
162 Services or the Commission on Human Rights and Opportunities may
163 conduct an audit of the financial, corporate and business records and
164 conduct an investigation of any [small contractor or minority business
165 enterprise which] small contractor, minority business enterprise or
166 veteran-owned contractor that applies for or is awarded a set-aside
167 contract for the purpose of determining eligibility for awards or
168 compliance with the requirements established under this section.

169 Sec. 6. Subdivision (1) of subsection (k) of section 4a-60g of the
170 general statutes is repealed and the following is substituted in lieu
171 thereof (*Effective October 1, 2019*):

172 (k) (1) (A) On or before January 1, 2000, the Commissioner of
173 Administrative Services shall establish a process for certification of
174 small contractors and minority business enterprises as eligible for set-
175 aside contracts. Each certification shall be valid for a period not to
176 exceed two years, unless the Commissioner of Administrative Services
177 determines that an extension of such certification is warranted,
178 provided any such extension shall not exceed a period of six months
179 from such certification's original expiration date. Any paper
180 application for certification shall be no longer than six pages. The
181 Department of Administrative Services shall maintain on its web site
182 an updated directory of small contractors and minority business

183 enterprises certified under this section.

184 (B) On or before January 1, 2020, the Commissioner of
185 Administrative Services shall establish a process for certification of
186 veteran-owned contractors as eligible for set-aside contracts. Each
187 certification shall be valid for a period not to exceed two years, unless
188 the Commissioner of Administrative Services determines that an
189 extension of such certification is warranted, provided any such
190 extension shall not exceed a period of six months from such
191 certification's original expiration date. Any paper application for
192 certification shall be no longer than six pages. The Department of
193 Administrative Services shall maintain on its web site an updated
194 directory of veteran-owned contractors certified under this section.

195 Sec. 7. Subdivision (3) of subsection (k) of section 4a-60g of the
196 general statutes is repealed and the following is substituted in lieu
197 thereof (*Effective October 1, 2019*):

198 (3) Whenever the Commissioner of Administrative Services has
199 reason to believe that [a small contractor or minority business
200 enterprise] a small contractor, minority business enterprise or veteran-
201 owned contractor who has applied for or received certification under
202 this section has included a materially false statement in his or her
203 application, the commissioner may impose a penalty not exceeding ten
204 thousand dollars after notice and a hearing held in accordance with
205 chapter 54. Such notice shall include (A) a reference to the statement or
206 statements contained in the application alleged to be false, (B) the
207 maximum civil penalty that may be imposed for such
208 misrepresentation, and (C) the time and place of the hearing. Such
209 hearing shall be fixed for a date not later than fourteen days from the
210 date such notice is sent. The commissioner shall send a copy of such
211 notice to the Commission on Human Rights and Opportunities.

212 Sec. 8. Subsection (l) of section 4a-60g of the general statutes is
213 repealed and the following is substituted in lieu thereof (*Effective*
214 *October 1, 2019*):

215 (l) On or before August thirtieth of each year, each awarding agency
216 setting aside contracts or portions of contracts under subdivision (2) of
217 subsection (b) of this section shall prepare a report establishing [small
218 and minority business] small, minority business and veteran-owned
219 contractor state set-aside program goals for the twelve-month period
220 beginning July first in the same year. Each such report shall be
221 submitted to the Commissioner of Administrative Services, the
222 Commission on Human Rights and Opportunities and the
223 cochairpersons and ranking members of the joint standing committees
224 of the General Assembly having cognizance of matters relating to
225 planning and development and government administration.

226 Sec. 9. Subsection (m) of section 4a-60g of the general statutes is
227 repealed and the following is substituted in lieu thereof (*Effective*
228 *October 1, 2019*):

229 (m) On or before November first of each year and on a quarterly
230 basis thereafter, each awarding agency setting aside contracts or
231 portions of contracts under subdivision (2) of subsection (b) of this
232 section shall prepare a status report on the implementation and results
233 of its [small business and minority business enterprise] small
234 contractor, minority business enterprise and veteran-owned contractor
235 state set-aside program goals during the three-month period ending
236 one month before the due date for the report. Each report shall be
237 submitted to the Commissioner of Administrative Services and the
238 Commission on Human Rights and Opportunities. Any awarding
239 agency that achieves less than fifty per cent of its [small contractor and
240 minority business enterprise] small contractor, minority business
241 enterprise and veteran-owned contractor state set-aside program goals
242 by the end of the second reporting period in any twelve-month period
243 beginning on July first shall provide a written explanation to the
244 Commissioner of Administrative Services and the Commission on
245 Human Rights and Opportunities detailing how the awarding agency
246 will achieve its goals in the final reporting period. The Commission on
247 Human Rights and Opportunities shall: (1) Monitor the achievement of
248 the annual goals established by each awarding agency; and (2) prepare

249 a quarterly report concerning such goal achievement. The report shall
250 be submitted to each awarding agency that submitted a report, the
251 Commissioner of Economic and Community Development, the
252 Commissioner of Administrative Services and the cochairpersons and
253 ranking members of the joint standing committees of the General
254 Assembly having cognizance of matters relating to planning and
255 development and government administration. Failure by any
256 awarding agency to submit any reports required by this section shall
257 be a violation of section 46a-77.

258 Sec. 10. Subsection (e) of section 4a-60h of the general statutes is
259 repealed and the following is substituted in lieu thereof (*Effective*
260 *October 1, 2019*):

261 (e) (1) On or before January 1, 1994, the Commissioner of
262 Administrative Services shall, by regulations adopted in accordance
263 with chapter 54, establish a process to ensure that small contractors,
264 small businesses and minority business enterprises have fair access to
265 all competitive state contracts outside of the state set-aside program.
266 (2) On or before January 1, 2020, the Commissioner of Administrative
267 Services shall, by regulations adopted in accordance with chapter 54,
268 establish a process to ensure that veteran-owned contractors have fair
269 access to all competitive state contracts outside of the state set-aside
270 program.

271 Sec. 11. Section 4a-60j of the general statutes is repealed and the
272 following is substituted in lieu thereof (*Effective October 1, 2019*):

273 A small contractor and a veteran-owned contractor shall receive
274 payment on a contract awarded to [him] such contractor under the
275 provisions of sections 4a-60g to 4a-60i, inclusive, as amended by this
276 act, no later than thirty days from the due date of any such payment on
277 such contract.

278 Sec. 12. Subsection (a) of section 4a-57 of the general statutes is
279 repealed and the following is substituted in lieu thereof (*Effective*
280 *October 1, 2019*):

281 (a) All purchases of, and contracts for, supplies, materials,
282 equipment and contractual services, except purchases and contracts
283 made pursuant to the provisions of subsection (b) of this section and
284 public utility services as provided in subsection (e) of this section shall
285 be based, when possible, on competitive bids or competitive
286 negotiation. The commissioner shall solicit competitive bids or
287 proposals by providing notice of the planned purchase in a form and
288 manner that the commissioner determines will maximize public
289 participation in the competitive bidding or competitive negotiation
290 process, including participation by small contractors, as defined in
291 section 4a-60g, as amended by this act, and promote competition. In
292 the case of an expenditure that is estimated to exceed fifty thousand
293 dollars, such notice shall be posted, not less than five calendar days
294 before the final date of submitting bids or proposals, on the State
295 Contracting Portal. Each notice of a planned purchase under this
296 subsection shall indicate the type of goods and services to be
297 purchased and the estimated value of the contract award. The notice
298 shall also contain a notice of state contract requirements concerning
299 nondiscrimination and affirmative action pursuant to section 4a-60
300 and, when applicable, requirements concerning the awarding of
301 contracts to [small contractors, minority business enterprises,
302 individuals with a disability and nonprofit corporations pursuant to
303 section 4a-60g.] small contractors, minority business enterprises,
304 individuals with a disability, nonprofit corporations and veteran-
305 owned contractors pursuant to section 4a-60g, as amended by this act.
306 Each bid and proposal shall be kept sealed or secured until opened
307 publicly at the time stated in the notice soliciting such bid or proposal.

308 Sec. 13. Subdivision (3) of section 22a-263a of the general statutes is
309 repealed and the following is substituted in lieu thereof (*Effective*
310 *October 1, 2019*):

311 (3) Each report required under section 4a-60g, as amended by this
312 act, setting forth [small and minority-business] small contractor,
313 minority business enterprise and veteran-owned contractor set-aside
314 program goals and addressing the authority's progress in meeting said

315 goals, not later than seven days after each such report is required to be
 316 submitted to the Commission on Human Rights and Opportunities
 317 under said section 4a-60g, as amended by this act;

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2019</i>	4a-59(c)
Sec. 2	<i>October 1, 2019</i>	4a-60g(a)
Sec. 3	<i>October 1, 2019</i>	4a-60g(b)(2)
Sec. 4	<i>October 1, 2019</i>	4a-60g(e)
Sec. 5	<i>October 1, 2019</i>	4a-60g(g)
Sec. 6	<i>October 1, 2019</i>	4a-60g(k)(1)
Sec. 7	<i>October 1, 2019</i>	4a-60g(k)(3)
Sec. 8	<i>October 1, 2019</i>	4a-60g(l)
Sec. 9	<i>October 1, 2019</i>	4a-60g(m)
Sec. 10	<i>October 1, 2019</i>	4a-60h(e)
Sec. 11	<i>October 1, 2019</i>	4a-60j
Sec. 12	<i>October 1, 2019</i>	4a-57(a)
Sec. 13	<i>October 1, 2019</i>	22a-263a(3)

Statement of Purpose:

To give veteran-owned businesses a ten per cent price preference on state contracts and set aside five per cent of all such contracts for award to veteran-owned contractors.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]