2020 -- H 8117

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LC005264
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N   A C T

RELATING TO PUBLIC PROPERTY AND WORKS -- MINORITY BUSINESS ENTERPRISE

It is enacted by the General Assembly as follows:

1   SECTION 1. Sections 37-14.1-3 and 37-14.1-7 of the General Laws in Chapter 37-14.1

2   entitled "Minority Business Enterprise" are hereby amended to read as follows:

3   **37-14.1-3. Definitions.**

4   (a) "Affirmative action" means taking specific steps to eliminate discrimination and its

5   effects, to ensure nondiscriminatory results and practices in the future, and to involve minority

6   business enterprises fully in contracts and programs funded by the state.

7   (b) "Compliance" means the condition existing when a contractor has met and implemented

8   the requirements of this chapter.

9   (c) "Contract" means a mutually binding legal relationship or any modification thereof

10   obligating the seller to furnish supplies or services, including construction, and the buyer to pay for

11   them. For purposes of this chapter, a lease is a contract.

12   (d) "Contractor" means any person or entity, organized under the laws of the United States

13   or of any state, regardless of whether it has a physical location in this state and is one who

14   participates, through a contract or subcontract, in any procurement or program covered by this

15   chapter and includes lessees and material suppliers.

16   (e) "Minority" means a person who is a citizen or lawful permanent resident of the United

17   States and who is:

18   (1) Black (a person having origins in any of the black racial groups of Africa);

1   (2) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or

2 other Spanish culture or origin, regardless of race);

3   (3) Portuguese (a person of Portuguese, Brazilian, or other Portuguese culture or origin,

4 regardless of race);

5   (4) Asian American (a person having origins in any of the original peoples of the Far East,

6 Southeast Asia, the Indian subcontinent, or the Pacific Islands);

7   (5) American Indian and Alaskan Native (a person having origins in any of the original

8 peoples of North America); or

9   (6) Members of other groups or other individuals found to be economically and socially

10 disadvantaged by the Small Business Administration under § 8(a) of the Small Business Act, as

11 amended, 15 U.S.C. § 637(a).

12   (f) "Minority business enterprise" or "MBE" means a small business concern, as defined

13 pursuant to § 3 of the federal Small Business Act, 15 U.S.C. § 632, and implementing regulations,

14 which is owned and controlled by one or more minorities or women organized under the laws of

15 the United States or of any state, regardless of whether it has a physical location in this state. For

16 the purposes of this chapter, owned and controlled means a business:

17   (1) Which is at least fifty-one percent (51%) owned by one or more minorities or women

18 or, in the case of a publicly owned business, at least fifty-one percent (51%) of the stock of which

19 is owned by one or more minorities or women; and

20   (2) Whose management and daily business operations are controlled by one or more such

21 individuals.; or

22   (3) Which is a nonprofit corporation, trust, unincorporated association or other organization

23 exempt from federal income tax under section 501(c)(3) of title 26 of the United States code, whose

24 board of directors is comprised of at least fifty-one percent (51%) minorities or women and whose

25 management and daily business operations are controlled by one or more such individuals.

26   (g) "MBE coordinator" means the official designated to have overall responsibility for

27 promotion of minority business enterprise in his or her departmental element.

28   (h) "Noncompliance" means the condition existing when a recipient or contractor has failed

29 to implement the requirements of this chapter.

30   **37-14.1-7. Establishment of criteria and guidelines.**

31   The director of the department of administration shall establish, by rule and regulations

32 adopted in accordance with chapter 35 of title 42, standards which shall determine whether a

33 construction project is covered by this chapter, compliance formulas, procedures for

34 implementation, and procedures for enforcement which are not inconsistent with 49 CFR 23 of the

1   federal regulations; provided, however, that no company exceeding the net worth as set out in 49

2   CFR 23.35 or as defined in 15 U.S.C. § 632, or any other limitation as to net worth set by federal

3   law or regulation, shall exclude any company from eligibility under this chapter. As to Rhode Island

4   department of transportation (RIDOT) contracts, the director of administration may delegate this

5   authority to the director of transportation; provided, however, that any RIDOT contracts that do not

6   rely on or utilize federal funds, shall comply with the provisions of this section and with the

7   provisions of § 37-14.1-3.

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

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

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RELATING TO PUBLIC PROPERTY AND WORKS -- MINORITY BUSINESS
ENTERPRISE

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1   This act would redefine the terms contractor and minority business enterprise to include

2   any business organized under the laws of the United States or any other state, regardless of whether

3   they have a physical location within this state, would include nonprofit businesses, would require

4   the Rhode Island department of transportation to follow these provisions for any contract not

5   utilizing federal funds and would also remove any limit on net worth for businesses eligible for

6   consideration under this chapter.

7   This act would take effect upon passage.

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