

2017 -- S 0085 SUBSTITUTE A

LC000365/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS

Introduced By: Senators Cote, Felag, Lynch Prata, and Seveney

Date Introduced: January 18, 2017

Referred To: Senate Special Legislation and Veterans Affairs

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 veterans of the United States armed services for
7 their service and to assist them by increasing opportunities for veteran-owned small businesses to
8 participate in state agency contracts and subcontracts, and to carry out the state's policy of
9 supporting the fullest possible participation of firms owned and controlled by certified veterans in
10 state-funded and state-directed public works projects and in-state purchases of goods and
11 services. This includes assisting such businesses throughout the life of contracts in which they
12 participate.

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

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

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

19 As used in this chapter, the following words shall have the following meanings:

1 (1) "Compliance" means the condition existing when a contractor has met and
2 implemented the requirements of this chapter.

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

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

8 (4) "Economically disadvantaged" means that the veteran's personal net worth is not in
9 excess of the economic disadvantaged criteria as established in 49 CFR part 26.

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

12 (6) "Small business concern" means a concern, including its affiliates, that is
13 independently owned and operated, not dominant in the field of operations in which it is bidding
14 on state government contracts, and qualified as a small business under the criteria and size
15 standards in 13 CFR part 121.

16 (7) "Veteran" means a person who served on active duty with the U.S. Army, Air Force,
17 Navy, Marine Corps or Coast Guard, for a minimum of one hundred eighty (180) days and who
18 was discharged or released under conditions other than dishonorable. Reservists or members of
19 the National Guard called to federal active duty (for other than training) or disabled from a
20 disease or injury incurred or aggravated in the line of duty or while in training status also qualify
21 as a veteran pursuant to 38 CFR part 74.

22 (8) "Veteran-owned small business enterprise" means a small business concern, not less
23 than fifty-one percent (51%) of which is owned and controlled by one or more economically
24 disadvantaged veterans, and may include a business owned by a surviving spouse or permanent
25 caregiver of a veteran as provided by 38 CFR part 74.

26 **37-14.3-4. Veteran-owned small business enterprise participation.**

27 (a) The state's annual goal for veteran-owned small business enterprises to participate in
28 state procurements shall be no less than three percent (3%) of the total value of all contracts
29 available to businesses in each fiscal year. The director of the department of administration is
30 authorized and directed to establish by rules and regulations formulas for giving veteran-owned
31 small business enterprises a preference in all procurements and public works projects and in
32 contract and subcontract awards.

33 (b) The director of the department of administration is further authorized to establish, by
34 rules and regulations adopted in accordance with chapter 35 of title 42, compliance formulas,

1 procedures for implementation, and procedures for enforcement.

2 **37-14.3-5. Establishment of criteria, guidelines and certification.**

3 The director of the department of administration shall, in consultation with the office of
4 veterans' affairs, establish, by rules and regulations adopted in accordance with chapter 35 of title
5 42, criteria to certify veteran-owned small business enterprises and maintain and update
6 publically accessible lists of veteran-owned small business enterprises that are certified by the
7 department.

8 **37-14.3-6. Sanctions.**

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

12 (1) Suspension of payments;

13 (2) Termination of the contract;

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

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

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

20 **37-14.3-7. Reporting.**

21 By August 1, 2018 and each August 1 thereafter, the department of administration shall
22 submit an annual report to the governor, speaker of the house, senate president and director of the
23 office of veterans' affairs for the period from July 1 to June 30 on the actual utilization of veteran-
24 owned small business enterprises as contractors, subcontractors, suppliers and professional
25 service providers for the state. The annual report shall include a list of all veteran-owned small
26 businesses that participated as contractors, subcontractors, suppliers and professional service
27 providers for the state during the previous fiscal year.

28 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

- 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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