

2009 -- H 5210

LC00383

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS -- MINORITY BUSINESS ENTERPRISE

Introduced By: Representatives Almeida, Williams, Diaz, and Slater

Date Introduced: January 28, 2009

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 37-14.1-1, 37-14.1-3, 37-14.1-4 and 37-14.1-6 of the General
2 Laws in Chapter 37-14.1 entitled "Minority Business Enterprise" are hereby amended to read as
3 follows:

4 **37-14.1-1. Purpose.** -- The purpose of this chapter is to carry out the state's policy of
5 supporting the fullest possible participation of firms owned and controlled by minorities and
6 women (MBE's [and WBE's](#)) in state funded and state directed public construction programs and
7 projects and in state purchases of goods and services. This includes assisting MBE's [and WBE's](#)
8 throughout the life of contracts in which they participate.

9 **37-14.1-3. Definitions.** -- (a) "Affirmative action" means taking specific steps to
10 eliminate discrimination and its effects, to ensure nondiscriminatory results and practices in the
11 future, and to involve minority business enterprises fully in contracts and programs funded by the
12 state.

13 (b) "Compliance" means the condition existing when a contractor has met and
14 implemented the requirements of this chapter [and any federal, state, or municipal laws or](#)
15 [regulations relevant to the purpose of the contract, including, but not limited to, the federal EEOC](#)
16 [recruitment and selection guidelines.](#)

17 (c) "Contract" means a mutually binding legal relationship or any modification thereof
18 obligating the seller to furnish supplies or services, including construction, and the buyer to pay

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

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

4 ~~(e) "Minority" means a person who is a citizen or lawful permanent resident of the
5 United States and who is:~~

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

7 ~~(2) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or
8 other Spanish culture or origin, regardless of race);~~

9 ~~(3) Portuguese (a person of Portuguese, Brazilian, or other Portuguese culture or origin,
10 regardless of race);~~

11 ~~(4) Asian American (a person having origins in any of the original peoples of the Far
12 East, Southeast Asia, the Indian subcontinent, or the Pacific Islands);~~

13 ~~(5) American Indian and Alaskan Native (a person having origins in any of the original
14 peoples of North America); or~~

15 (e) "Minority individual" means an individual who is a citizen of the United States or a
16 noncitizen who is in full compliance with United States immigration law and who satisfies one or
17 more of the following definitions:

18 (1) "African American" means a person having origins in any of the original peoples or
19 nations of Africa, such as Cape Verde, Liberia and Nigeria;

20 (2) "Asian American" means a person having origins in any of the original peoples of the
21 Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including, but not limited
22 to, Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana, the Philippines, a
23 U.S. Territory of the Pacific, India, Pakistan, Bangladesh, or Sri Lanka;

24 (3) "Latino American" means a person having origins in any of the peoples of Mexico,
25 South or Central America, the Caribbean Islands, or Brazil;

26 (4) "Native American" means a person having origins in any of the original peoples of
27 North America or who is recognized by a tribal organization; or

28 ~~(6)~~(5) Members of other groups or other individuals found to be economically and
29 socially disadvantaged by the Small Business Administration under section 8(a) of the Small
30 Business Act, as amended, 15 U.S.C. section 637(a).

31 ~~(f) "Minority business enterprise" or "MBE" means a small business concern, as defined
32 pursuant to section 3 of the federal Small Business Act, 15 U.S.C. section 632, and implementing
33 regulations, which is owned and controlled by one or more minorities or women. For the
34 purposes of this chapter, owned and controlled means a business:~~

1 ~~(1) Which is at least fifty one percent (51%) owned by one or more minorities or women~~
2 ~~or, in the case of a publicly owned business, at least fifty one percent (51%) of the stock of which~~
3 ~~is owned by one or more minorities or women; and~~

4 ~~(2) Whose management and daily business operations are controlled by one or more such~~
5 ~~individuals.~~

6 (f) "Minority business enterprise" or "MBE" means a small business concern that is at
7 least fifty-one percent (51%) owned by one or more minority individuals that are found to be
8 socially and economically disadvantaged by the Small Business Administration under section
9 8(a) of the Small Business Act, as amended, 15 U.S.C. section 637(a), or in the case of any
10 corporation, partnership, or limited liability company or other entity, at least fifty-one percent
11 (51%) of the equity ownership is owned by one or more socially and economically disadvantaged
12 minority individuals and the management and daily business operations are controlled by one or
13 more of the socially and economically disadvantaged minority individuals who own it.

14 (g) "Women-owned business enterprises" or "WBE" means a small business concern that
15 is at least fifty-one percent (51%) owned by one or more women that are found to be socially and
16 economically disadvantaged by the Small Business Administration under section 8(a) of the
17 Small Business Act, as amended, 15 U.S.C. section 637(a), or in the case of any corporation,
18 partnership, or limited liability company or other entity, at least fifty-one percent (51%) of the
19 equity ownership is owned by one or more socially and economically disadvantaged women and
20 the management and daily business operations are controlled by one or more of the socially and
21 economically disadvantaged women who own it.

22 (h)(g) "MBE coordinator" means the official designated to have overall responsibility for
23 promotion of minority business enterprise in his or her departmental element.

24 (i)(h) "Noncompliance" means the condition existing when a recipient or contractor has
25 failed to implement the requirements of this chapter.

26 (j) "Small Business concern" means a business as defined by the Federal Small Business
27 Act, 15 U.S.C.

28 (k) "State funded and state directed public construction programs and projects" means
29 any construction project, construction contract or procurement contract for goods and services
30 funded in whole or in part by state funds, or funds which, in accordance with federal grant or
31 otherwise, the state expends or administers or in which the state is a signatory. Quasi-independent
32 state agencies, such as the Rhode Island public buildings authority. The Narragansett Bay
33 commission and the Rhode Island port authority, are subject to the requirements outlined under
34 these provisions.

1 **37-14.1.4. Policy.** -- It is the policy of the state of Rhode Island that minority business
2 enterprises (MBE's) and women-owned business enterprises (WBE's) shall have the maximum
3 opportunity to participate in the performance of procurements and projects outlined in section 37-
4 14.1-2.

5 **37-14.1-6. ~~Minority business enterprise participation.~~ -- Minority business**
6 **enterprise and women-owned business enterprise participation.** -- (a) Minority business
7 enterprises shall be included in all procurements and construction projects under this chapter and
8 shall be awarded a minimum of ten percent (10%) of the dollar value of the entire procurement or
9 project. The director of the department of administration is further authorized to establish by rules
10 and regulation formulas for giving minority business enterprises a preference in contract and
11 subcontract awards.

12 (b) Women-owned business enterprises shall be included in all procurements and
13 construction projects under this chapter and shall be awarded a minimum of ten percent (10%) of
14 the dollar value of the entire procurement or project. The director of the department of
15 administration is further authorized to establish by rules and regulation formulas for giving
16 women-owned business enterprises a preference in contract and subcontract awards.

17 (c) The MBE coordinator shall report state expended procurement dollars on minority
18 and women-owned businesses. The report shall disclose procurement expenditures by the ethnic
19 category and industry under the "minority definition."

20 SECTION 2. Chapter 37-14.1 of the General Laws entitled "Minority Business
21 Enterprise" is hereby amended by adding thereto the following sections:

22 **37-14.1-7.1. Cooperation.** -- All departments, boards, and agencies of the state shall
23 cooperate with all state entities charged with equal opportunity, diversity, minority business
24 enterprise, and/or civil rights concerns, such as the human rights commission, the state equal
25 opportunity office, the human resources, outreach and diversity, the minority business enterprise
26 office, the commission on women, the governor's commission on the handicapped, and shall
27 furnish any advice and information, documentary and otherwise, that may be necessary or
28 desirable to facilitate the purposes of this chapter.

29 **37-14.1-7.2. Quarterly reports.** -- The director of the department of administration shall
30 file quarterly reports, hereby known as the state contract roster, with the secretary of state of all
31 state contracts. The office of secretary of state shall post the state contract roster on its website
32 for public disclosure. Included in the report shall be:

33 (1) The date, dollar amount, date of issuance, contract period, designation of bid or no bid
34 status of all state contracts issued during the quarter, by state and agency; and

1 (2) The Rhode Island economic development corporation shall make available
2 electronically its directory of businesses in Rhode Island on its website, and to the secretary of
3 state for public disclosure on the secretary of state website, as the recorder of public documents.
4 The directory of businesses shall be all inclusive, annually updated, and shall designate minority
5 and certified minority status. For purposes of this report, female owned businesses shall be
6 distinguished from other minority groups. For purposes of this chapter, minority shall be
7 consistent with the definitions contained within.

8 **37-14.1-7.3. Severability.** -- If any provision or part of this chapter, or application of this
9 chapter to any person or circumstances is held unconstitutional or otherwise invalid, the
10 remaining provisions of this chapter and the application of those provisions to any other person or
11 persons or circumstances, other than those to which it is held invalid, shall not be affected by that
12 invalidity.

13 SECTION 3. This act shall take effect upon passage.

=====
LC00383
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO PUBLIC PROPERTY AND WORKS -- MINORITY BUSINESS
ENTERPRISE

1 This act would clarify definitions, broaden administration flexibility, provide
2 accountability and includes women-owned business enterprises (WBE) for ten percent (10%) of
3 the dollar value of the entire project in state funded and state directed public construction
4 programs and projects and in state purchases of goods and services.

5 This act would take effect upon passage.

=====
LC00383

=====