

# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

#### Reorganization of the Department of Labor and Industry

The Executive Board approved a reorganization of the Department of Labor and Industry effective August 11, 2000.

The following organization chart at 30 Pa.B. 4435 (August 26, 2000) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)*

[Pa.B. Doc. No. 00-1452. Filed for public inspection August 25, 2000, 9:00 a.m.]

## Title 12—COMMERCE, TRADE AND LOCAL GOVERNMENT

### DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

[12 PA. CODE CH. 123]

#### Community Revitalization Program

The Department of Community and Economic Development (Department) hereby amends Chapter 123 to read as set forth in Annex A. The statement of policy is amended under the authority of Part II, section 209 of Act 21A of 2000 (Appropriation Act).

#### *Background*

The Appropriation Act requires the Department to publish Community Revitalization Program (CRP) guidelines in the *Pennsylvania Bulletin* prior to the spending of the 2000-2001 moneys designated for the CRP. This amended statement of policy updates the existing CRP guidelines published in 1999.

#### *Amendments*

Section 123.1 (relating to introduction) is amended to update the reference to the Appropriation Act and to the current fiscal year.

Section 123.3 (relating to eligibility) is amended to update the reference to the Appropriation Act and to the current fiscal year.

Section 123.5 (relating to application submission and approval procedure) is amended to update the reference to the current fiscal year, the grant award cycles and the proposed award dates.

Section 123.6 (relating to procedures) is amended to update the reference to the current fiscal year.

#### *Fiscal Impact*

The amended statement of policy has no fiscal impact on the Commonwealth, political subdivisions or the public.

#### *Paperwork Requirements*

Additional paperwork requirements are not imposed as a result of the amended statement of policy.

#### *Contact Person*

For further information regarding the amended statement of policy, contact Matt Tunnell, Director, Policy and Technology Office, Department of Community and Economic Development, Room 433 Forum Building, Harrisburg, PA 17120, (717) 787-3003.

#### *Findings*

The Department finds that delay in implementing the statement of policy will have a serious adverse impact on the public interest.

#### *Order*

The Department acting under the authorizing statute, orders that:

(a) The statement of policy of the Department, 12 Pa. Code Chapter 123, is amended by amending §§ 123.1, 123.3, 123.5 and 123.6 to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Office of General Counsel for approval as to form and legality as required by law.

(c) The Secretary of the Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

SAMUEL MCCULLOUGH,  
*Secretary*

**Fiscal Note:** 4-71. No fiscal impact; (8) recommends adoption.

#### **Annex A**

### **TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT**

#### **PART V. COMMUNITY AFFAIRS AND DEVELOPMENT**

##### **Subpart A. STRATEGIC PLANNING AND OPERATION**

#### **CHAPTER 123. COMMUNITY REVITALIZATION PROGRAM—STATEMENT OF POLICY**

##### **§ 123.1. Introduction.**

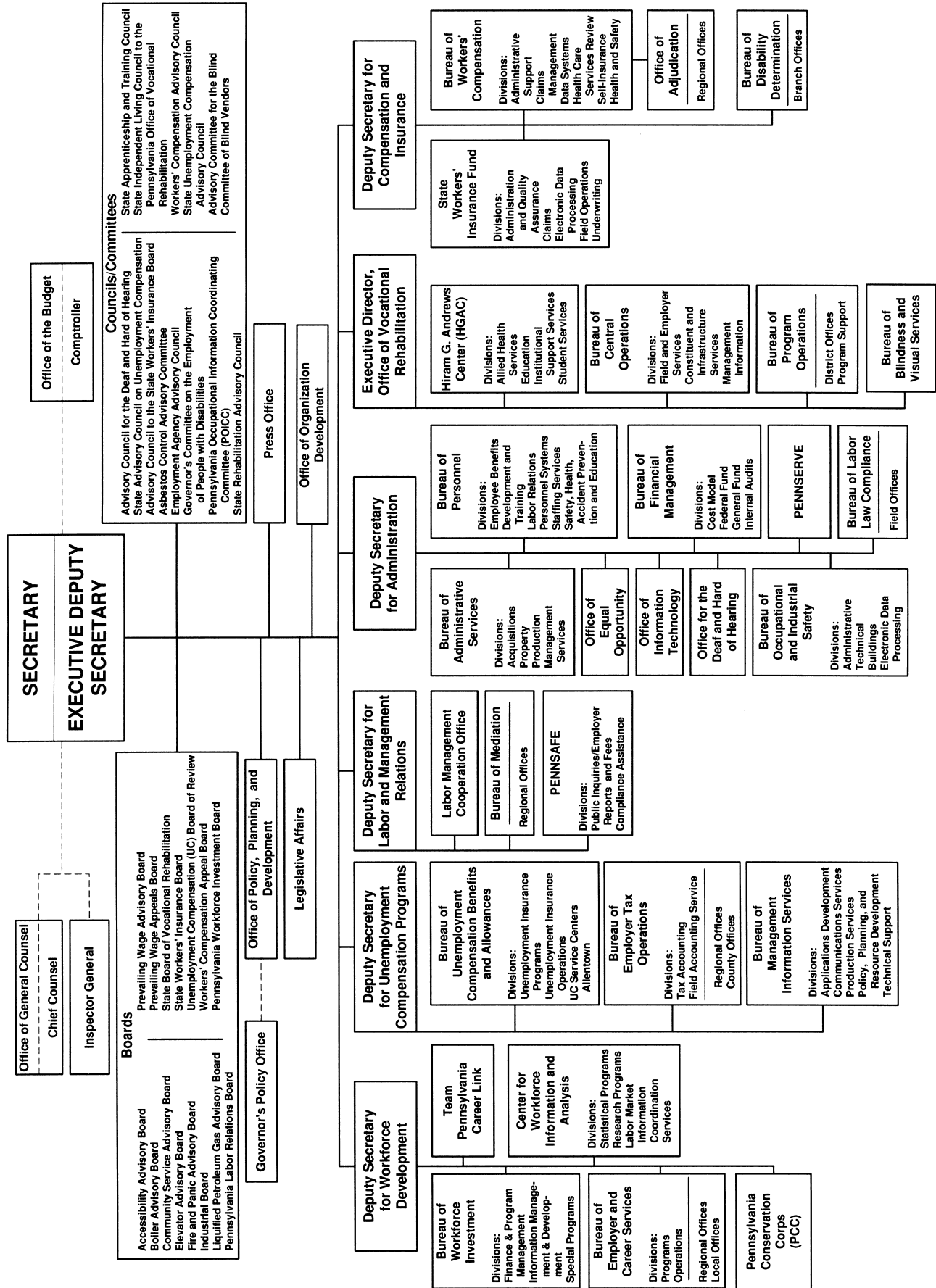
(a) The CRP provides grants for community revitalization and improvement projects throughout this Commonwealth. CRP funds may be used for projects that are in accordance with Act 21A of 2000. Eligible projects are defined in § 123.3(b) (relating to eligibility).

(b) Assistance from the CRP is in the form of grants from the Commonwealth to eligible applicants for projects which, in the judgment of the Department:

(1) Comply with Act 21A of 2000.

(2) Are in accordance with the program guidelines in this chapter.

DEPARTMENT OF LABOR AND INDUSTRY



(3) Meet all Department Single Application for Assistance criteria found in the application.

(c) Applicants should be aware that applications for other Department programs may also be considered under the CRP. This creates a large pool of applications for a limited appropriation from the General Assembly. As such, not every application can or will be funded.

(d) The 2000 CRP expenditures will be charged to the State fiscal year July 1, 2000 to June 30, 2001.

### § 123.3. Eligibility.

(a) *Eligible applicants.* The following applicants are eligible:

(1) General purpose units of local government, including counties, cities, boroughs, townships and home rule municipalities.

(2) Municipal and redevelopment authorities and agencies.

(3) Industrial development authorities and agencies.

(4) Nonprofit corporations incorporated under the laws of the Commonwealth.

(5) Community organizations engaged in activities consistent with the program guidelines as determined by the Department.

(b) *Eligible projects.* CRP funds may be used for community revitalization and improvement projects that are consistent with Act 21A of 2000. Eligible projects include projects which meet one or more of the following criteria:

(1) Improve the stability of the community.

(2) Promote economic development.

(3) Improve existing or develop new, or both, civic, cultural, recreational, industrial and other facilities.

(4) Assist in business retention, expansion, creation or attraction.

(5) Promote the creation of jobs and employment opportunities.

(6) Enhance the health, welfare and quality of life of Pennsylvania citizens.

(c) *Guideline compliance for Fiscal Year 2000-2001.* Projects that receive funding shall meet one or more of the criteria in subsection (b).

### § 123.5. Application submission and approval procedure.

(a) The application is available by calling the Customer Service Center, the Department's Regional Offices or at the Department's web site DCED@state.pa.us. Applications will be accepted anytime throughout the fiscal year, subject to § 123.7 (relating to limitations and penalties). Applications should be submitted to the following address:

Department of Community and Economic Development  
Customer Service Center  
400 Forum Building  
Harrisburg, Pennsylvania 17120  
(800) 379-7448

(b) CRP grant awards will be made in four funding rounds during the fiscal year. The Department will grant approximately 20% to 25% of the program appropriation in each round, and the balance in the final round. These percentages are targets. The Department will make every effort to allocate program funds in accordance with these targets, but is not bound to them. Applicants should not

apply in each round, and should apply only once during the 2000-2001 Fiscal Year. Grant applications not funded in a round will be rolled into the next round for consideration.

(1) The first round consideration will include all applications received between July 1 and Thursday, August 31, 2000.

(2) The second round will include applications received by Thursday, November 30, 2000, and applications not approved in the first round.

(3) The third round will include applications received by Wednesday, January 31, 2001, and applications not approved in the first and second rounds.

(4) The fourth round will include applications received by Friday, March 30, 2001, and applications not approved in the first, second and third rounds.

(5) Targeted grant announcement dates, subject to change without notice at the discretion of the Department, are as follows:

(i) October 2000 for the first round.

(ii) January 2001 for the second round.

(iii) March 2001 for the third round.

(iv) May 2001 for the fourth round.

(c) CRP funds remaining after the fourth round may be awarded by the Department up to the end of the fiscal year.

(d) Unlike prior years, letters will not be sent to applicants after each funding round advising applicants that they have not been funded.

(e) Applicants that do not receive funding during any of the rounds will be notified at the end of the fiscal year.

(f) Follow up information as to the status of submitted grant applications may be obtained by contacting the DCED Customer Service Center. However, calls are not encouraged. The account manager letter is confirmation of receipt of the application. The demand for this program is very high, and staff may not be familiar with each individual application. Applicant care in preparation of the application will assist the Department in processing the application.

(h) Applicants should not submit more than one application per fiscal year. Additional applications do not enhance opportunity for funding. The Department reserves the right to reject additional applications from the same applicant, without notice to the applicant.

(i) The Department reserves the right to reject, without notification, applications received after March 30, 2001 for the 2000-2001 fiscal year appropriation.

### § 123.6. Procedures.

(a) The CRP grant award notifications will be made by letter. After the award letter has been mailed, the applicant will receive a contract document that shall be signed by the grantee and returned to the Department for execution on behalf of the Commonwealth. Grants will not be awarded without a fully executed contract.

(b) The applicant will maintain full and accurate records with respect to the project. The Department will have free access to these records including invoices of material and other relative data and records, as well as the right to inspect all project work. The applicant shall

furnish upon request of the Department the data, reports, contracts, documents and other information relevant to the project.

(c) Approved grants in the amount of \$100,000 or more require the grantee to provide an audit of the grant by a certified public accountant, prepared at the expense of the grantee, in compliance with State law.

(d) Approved grants under \$100,000 require the grantee to submit a detailed financial statement and a close out report of the use of State funds consistent with the contract. An audit is recommended, although not required.

(e) Funds will be disbursed according to the provisions in the contract between the applicant and the Department.

(f) Applications not acted on favorably will be considered to have been denied and will not be considered for the 2001-2002 fiscal year.

[Pa.B. Doc. No. 00-1453. Filed for public inspection August 25, 2000, 9:00 a.m.]

## Title 64—SECURITIES

### SECURITIES COMMISSION

#### [64 PA. CODE CH. 604]

#### Denial of Allegations; Offers of Settlement and Consent Injunctions—Criminal Referrals and Investigations

The Securities Commission (Commission) hereby publishes this statement of policy to read as set forth in Annex A. This statement of policy addresses: (1) denial of allegations in any civil lawsuit brought by the Commission or in any administrative proceeding of an accusatory nature pending before the Commission; and (2) consents, or agreements to consent, to any judgment of a court in a civil case brought by the Commission or a Commission order.

##### A. Effective Date

The statement of policy shall be effective upon publication in the *Pennsylvania Bulletin*.

##### B. Statutory Reference

Section 510 of the Pennsylvania Securities Act of 1972 (act) (70 P.S. § 1-509) authorizes the Commission to institute investigations for violations of the act. Section 509 of the act (70 P.S. § 1-509) permits the Commission to seek civil injunctive and other equitable relief in the Commonwealth Court and courts of common pleas as well as civil contempt for violations of certain Commission orders. Sections 512, 513 and 602.1 of the act (70 P.S. §§ 1-512, 1-513 and 1-602.1) allow the Commission to impose certain sanctions and administrative assessments. Under § 901.011 (relating to applicability of general rules), administrative proceedings before the Commission are governed by 1 Pa. Code § 31.1 (relating to scope of part) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

##### C. Summary and Purpose

The purpose of § 604.021 (relating to denial of allegations—statement of policy) is to address the public policy issue of preventing a person from entering into a settlement of an enforcement matter brought by the Commission

in which the person denies that the alleged activities ever occurred. In this section, the Commission announces its policy that, in any civil lawsuit brought by the Commission or in any administrative proceeding of an accusatory nature pending before the Commission, it is important to avoid creating, or permitting to be created, an impression that a decree is being entered or a sanction is being imposed, when the conduct alleged did not, in fact, occur.

Therefore, it is the Commission's policy not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or the Commission's order instituting an administrative proceeding of an accusatory nature. The Commission believes that a refusal to admit the allegations is equivalent to a denial, unless the defendant or respondent states that he neither admits nor denies the allegations. This section is identical to a similar policy statement published by the United States Securities and Exchange Commission at 17 CFR 202.5(e) (relating to enforcement activities).

Section 604.021 is intended to place defendants in civil lawsuits and respondents in administrative proceedings on notice that anyone who consents or agrees to consent to any judgment or order does so solely for the purpose of resolving investigative, civil or administrative matters and not for the purpose of resolving any criminal charges that have been, or may be brought against them.

Although section 511 of the act provides for a criminal penalty for violations of the act, criminal authority and responsibility are vested in the Office of Attorney General and the district attorneys of the several counties, not the Commission. Adoption of this statement of policy is intended to emphasize that persons who enter into settlement negotiations and agree to a consent judgment or order know that the consent or order addresses only investigative, civil or administrative matters and has no bearing on resolving criminal charges that have been, or might be brought, against them, including a recommendation made by the Commission under § 501.011 (relating to criminal referrals).

M. JOANNA CUMMINGS,  
*Secretary*

(*Editor's Note:* The regulations of the Commission are amended by adding a statement of policy at 61 Pa. Code §§ 604.021 and 604.022 to read as set forth in Annex A.)

**Fiscal Note:** 50-115. No fiscal impact; (8) recommends adoption.

#### Annex A

#### TITLE 64. SECURITIES

#### PART I. SECURITIES COMMISSION

#### Subpart F. ADMINISTRATION

#### CHAPTER 604. INTERPRETIVE OPINIONS OF COMMISSION—STATEMENT OF POLICY

#### § 604.021. Denial of allegations—statement of policy.

The Commission has adopted a policy that in a civil lawsuit brought by the Commission or in an administrative proceeding of an accusatory nature pending before the Commission, it is important to avoid creating, or permitting to be created an impression that a decree is being entered or a sanction is being imposed, when the conduct alleged did not, in fact, occur. Accordingly, it is the policy of the Commission not to permit a defendant or respondent to consent to a judgment or order that

imposes a sanction while denying the allegations in the complaint or the Commission's order instituting an administrative proceeding of an accusatory nature. The Commission believes that a refusal to admit the allegations is equivalent to a denial, unless the defendant or respondent states that he neither admits nor denies the allegations.

**§ 604.022. Offers of settlement and consent injunctions—criminal referrals and investigations—statement of policy.**

(a) In the course of Commission investigations, civil lawsuits and administrative proceedings, Commission staff may discuss with persons involved the disposition of these matters by consent, by settlement or in some other manner.

(b) It is the policy of the Commission that the disposition of a matter may not, expressly or impliedly, extend to criminal charges that have been, or may be, brought

against the person or a recommendation by the Commission under § 501.011 (relating to criminal referrals) with respect thereto.

(c) A person involved in an enforcement matter before the Commission who consents, or agrees to consent, to a judgment or order does so solely for the purpose of resolving claims against him with respect to that investigative, civil or administrative matter and not for the purpose of resolving criminal charges that have been, or might be, brought against him.

(d) This statement of policy reflects the fact that neither the Commission nor its staff have the authority or responsibility for instituting, conducting, settling or otherwise disposing of criminal proceedings. That authority and responsibility is vested in the Office of Attorney General and the district attorneys of the several counties.

[Pa.B. Doc. No. 00-1454. Filed for public inspection August 25, 2000, 9:00 a.m.]