

# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

#### [ 4 PA. CODE CH. 9 ]

#### Reorganization of the Department of Agriculture

The Executive Board approved a reorganization of the Department of Agriculture effective July 16, 2012.

The organization chart at 42 Pa.B. 5240 (August 11, 2012) 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) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)*

[Pa.B. Doc. No. 12-1520. Filed for public inspection August 10, 2012, 9:00 a.m.]

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### PART II. EXECUTIVE BOARD

#### [ 4 PA. CODE CH. 9 ]

#### Reorganization of the Department of Transportation

The Executive Board approved a reorganization of the Department of Transportation effective July 16, 2012.

The organization chart at 42 Pa.B. 5241 (August 11, 2012) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

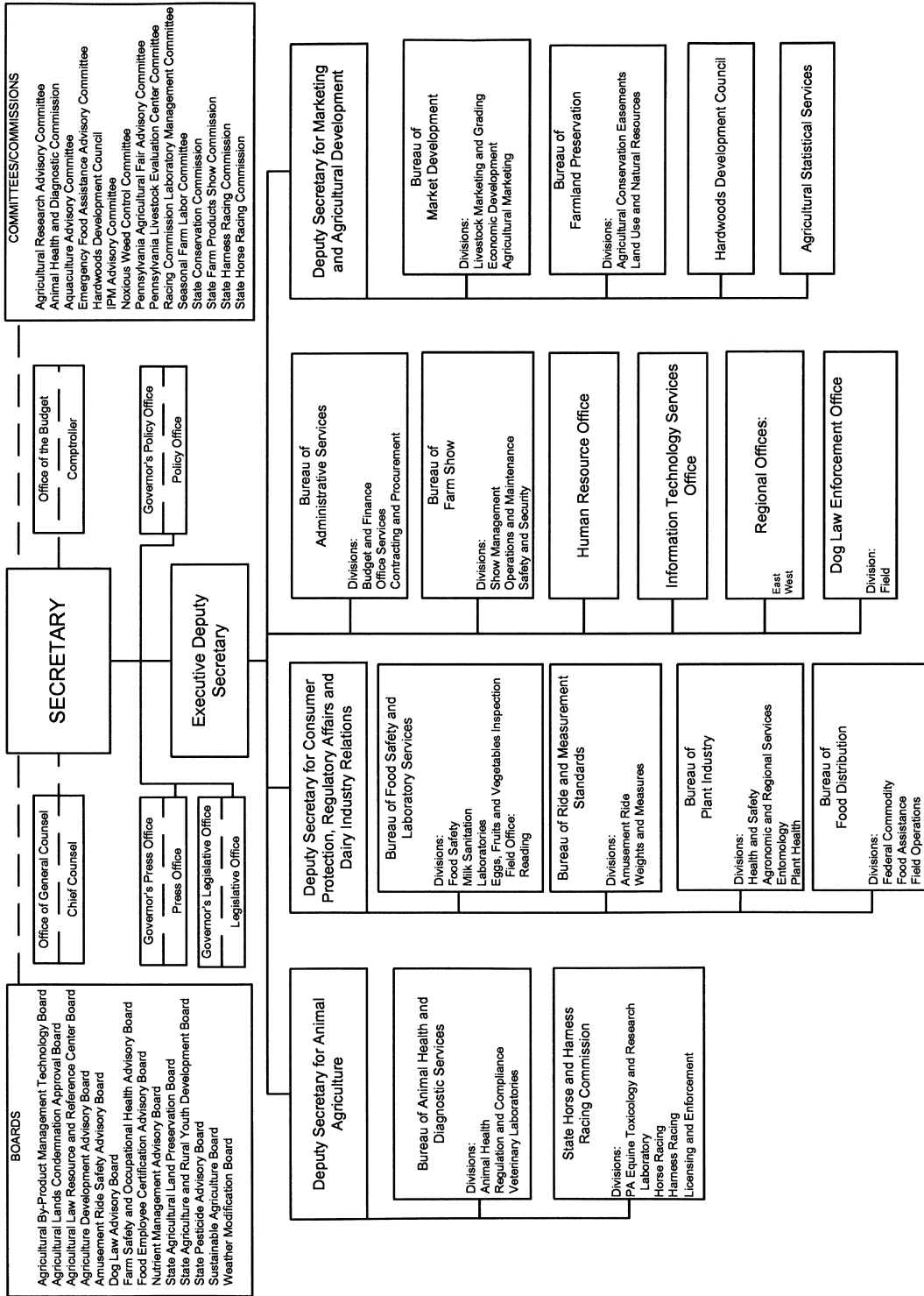
*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania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

[Pa.B. Doc. No. 12-1521. Filed for public inspection August 10, 2012, 9:00 a.m.]

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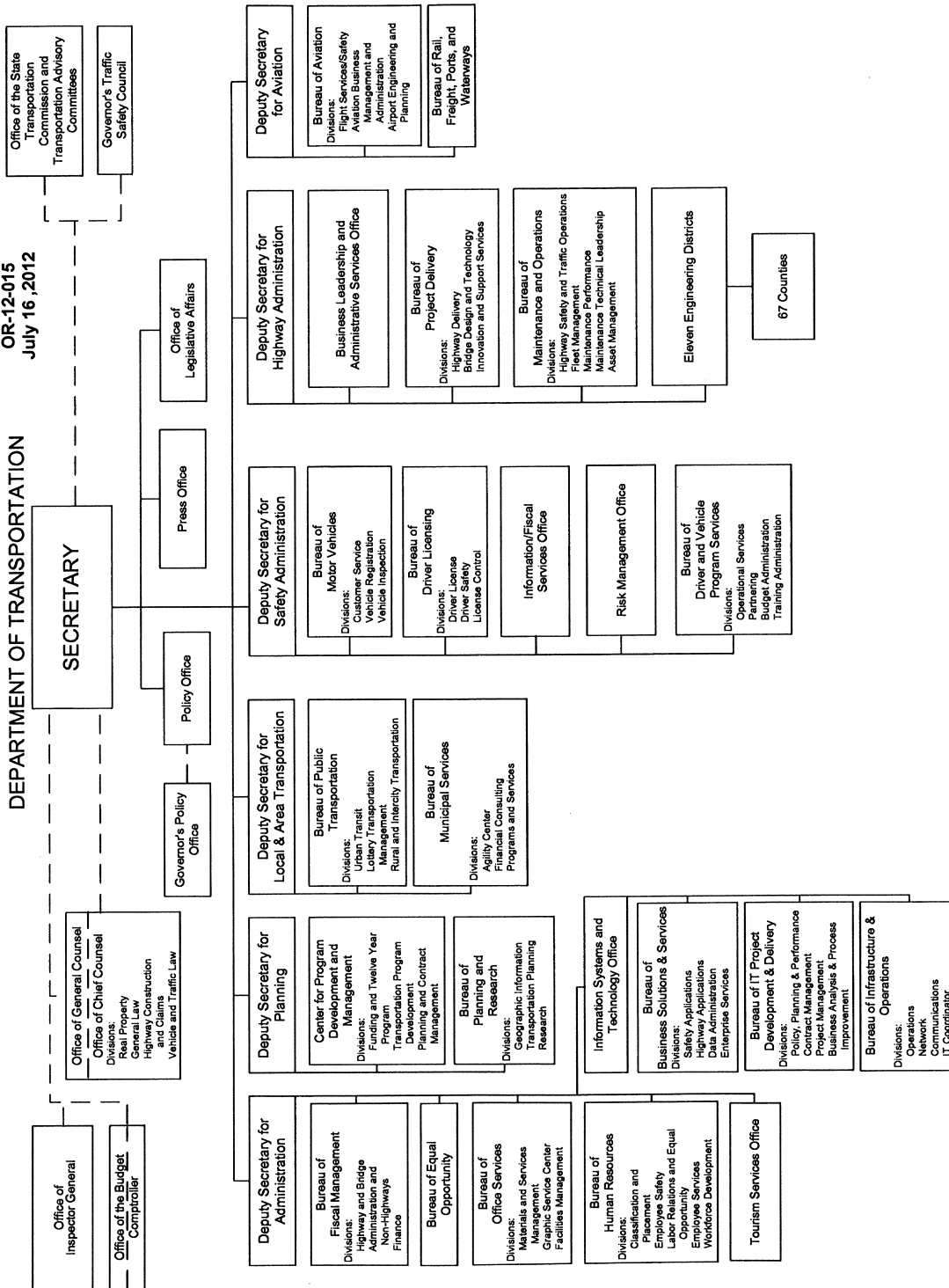
OR-12-013  
July 16, 2012

DEPARTMENT OF AGRICULTURE



OR-12-015  
July 16, 2012

DEPARTMENT OF TRANSPORTATION



**DEPARTMENT OF GENERAL SERVICES**

**[ 4 PA. CODE CH. 68 ]**

**Small Diverse Business Opportunities within Construction Contracts**

The Department of General Services amends Chapter 68 (relating to contract compliance) to update former guidelines and focus on a single goal concept to utilize Small Diverse Businesses. Section 68.101 is rescinded and replaced with § 68.102 (relating to contract compliance—construction contracts—statement of policy). Contractors either commit to meet the minimum participation level or document good faith efforts to secure commitments with Small Diverse Businesses. In addition, this statement of policy modifies commitment credits for stocking suppliers and nonstocking suppliers.

This statement of policy takes effect immediately upon publication in the *Pennsylvania Bulletin*.

Specific questions regarding information provided in this statement of policy may be directed to the Department of General Services, Office of Chief Counsel, 603 North Office Building, 401 North Street, Harrisburg, PA 17120.

*Fiscal Impact*

This statement of policy is fiscal neutral.

*Effective Date*

This statement of policy is effective upon publication in the *Pennsylvania Bulletin*.

SHERI PHILLIPS,  
*Secretary*

*(Editor's Note: Title 4 of the Pennsylvania Code is amended by deleting the statement of policy in § 68.101 and by adding a statement of policy in § 68.102 to read as set forth in Annex A.)*

**Fiscal Note:** 8-15. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 4. ADMINISTRATION**

**PART III. DEPARTMENT OF GENERAL SERVICES**

**Subpart C. CONSTRUCTION AND PROCUREMENT**

**ARTICLE III. PROCUREMENT**

**CHAPTER 68. CONTRACT COMPLIANCE**

**Subchapter B. CONTRACT COMPLIANCE—CONSTRUCTION CONTRACTS**

**§ 68.101. (Reserved).**

**§ 68.102. Contract compliance—construction contracts—statement of policy.**

(a) The Department of General Services (DGS) is strongly committed to establishing, maintaining and ensuring that open and equitable contracting practices are utilized in construction activities. Contractors may not discriminate against Minority Business Enterprises (MBEs), Woman Business Enterprises (WBEs), Veteran Business Enterprises (VBEs) or Service-Disabled Veteran Business Enterprises (SDVBEs) (together referred to as Small Diverse Businesses) in their solicitation and utilization of subcontractors, manufacturers or suppliers.

(b) DGS will establish a minimum participation level (MPL) for Small Diverse Businesses for each contract in the bid documents. The specific MPL set will be based on factors such as geographical locations, contract size, contract type and the availability of Small Diverse Businesses.

(c) Throughout the duration of the contract, DGS will require contractors to use reasonable and good faith efforts to identify, solicit and secure commitments with Small Diverse Businesses as subcontractors, manufacturers and suppliers.

(d) If awarded the contract, unless the contractor chooses to “opt-in” as stated in subsection (e), the contractor is required, during the term of the contract, to document its reasonable and good faith efforts to identify, solicit and secure commitments with Small Diverse Businesses for each subcontract and purchase order exceeding \$10,000. DGS may require the contractor to submit the Good Faith Effort Documentation.

(e) If awarded the contract, rather than having to prepare, and possibly submit, the Good Faith Effort Documentation for each subcontract and purchase order exceeding \$10,000, a contractor has the option of simply committing to meet or exceed the MPL.

(f) Contractors either selecting the “opt-in” option or the Good Faith Effort Documentation option shall submit a report on Small Diverse Business utilization as part of every application for payment that documents commitments and payments made to Small Diverse Businesses during the contract term. The report must include the name of the company, description of work and amount paid.

(g) Contractors will be credited for Small Diverse Business participation in accordance with the following chart:

<i>Small Diverse Business Category</i>	<i>% of Credit</i>
<i>Subcontractors:</i> The Small Diverse Business subcontractor, through its own employees, shall perform at least 60% of the amount of the subcontract.	Count 100% of the subcontract amount as well as 100% of any subcontract from the subcontractor to another Small Diverse Business subcontractor.
<i>Manufacturers:</i> A manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles or equipment required under the contract and of the general character described by the specifications.	Count 100% of the total cost of the materials or supplies purchased from the Small Diverse Business manufacturer.

<i>Small Diverse Business Category</i>	<i>% of Credit</i>
<p><i>Stocking suppliers:</i> A stocking supplier is a firm that owns, operates or maintains a store, warehouse or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock and regularly sold or leased to the public in the usual course of business.</p>	<p>Count 60% of the total cost of the materials or supplies purchased from the Small Diverse Business stocking supplier.</p>
<p><i>Nonstocking suppliers:</i> A nonstocking supplier does not carry inventory but orders materials from a manufacturer, manufacturer's representative or a stocking supplier. For a nonstocking supplier to receive credit, the nonstocking supplier shall perform a useful business function by engaging in meaningful work (that is, negotiating price; determining quality and quantity; ordering materials; and paying for the materials).</p> <p>Industry practices and other relevant factors will be considered.</p>	<p>Count only the amount of the fee or commission charged by the Small Diverse Business nonstocking supplier for assistance in the procurement of the materials and supplies provided the fees are reasonable and not excessive as compared with fees customarily allowed for similar services.</p>

[Pa.B. Doc. No. 12-1522. Filed for public inspection August 10, 2012, 9:00 a.m.]

