

# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### DEPARTMENT OF GENERAL SERVICES

#### [ 4 PA. CODE CH. 58 ]

#### Small Business Self-Certification and Small Diverse Business Verification

To provide clarity to the vendor community, the Department of General Services (Department) is amending Chapter 58, Subchapter D (relating to internal guidelines for Small Business Self-Certification and Small Diverse Business Verification—statement of policy), primarily in the area which outlines the verification of Small Diverse Businesses. To participate in the Small Diverse Business program, a vendor shall first self-certify through an online application known as Small Business Procurement Initiative (SBPI). Before the expiration of the 1-year self-certification period, the vendor shall obtain an approved third-party certification to maintain its status as a Small Diverse Business. The Department will be using a single expiration date, as determined by SBPI expiration, for both SBPI status and Small Diverse Business status. This approach will streamline the overall process for vendors seeking contracting opportunities with the Commonwealth.

#### *Fiscal Impact*

The amended statement of policy is fiscal neutral.

#### *Effective Date*

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

#### *Contact Person*

Specific questions relating to 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.

SHERI PHILLIPS,  
*Secretary*

(*Editor's Note:* Title 4 of the *Pennsylvania Code* is amended by amending the statements of policy in §§ 58.303 and 58.304 to read as set forth in Annex A.)

**Fiscal Note:** 8-19. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 4. ADMINISTRATION

#### PART III. DEPARTMENT OF GENERAL SERVICES

#### Subpart C. CONSTRUCTION AND PROCUREMENT

#### ARTICLE I. GENERAL

#### CHAPTER 58. CONTRACT COMPLIANCE

#### Subchapter D. INTERNAL GUIDELINES FOR SMALL BUSINESS SELF-CERTIFICATION AND SMALL DIVERSE BUSINESS VERIFICATION—STATEMENT OF POLICY

#### § 58.303. Self-certification of eligible small businesses.

(a) *Online self-certification for small businesses.* To participate in the SBPI and the Small Diverse Business Program, small businesses shall self-certify through an

online application process outlined at [www.smallbusiness.pa.gov](http://www.smallbusiness.pa.gov). The SBPI enables eligible small businesses to compete for prime contracting opportunities with the Commonwealth against other eligible small businesses. Upon successful completion of the SBPI self-certification process, the small business will be issued a certificate. The self-certification will remain in effect for 1 year. The small business shall recertify on an annual basis to maintain its status as a self-certified small business.

#### (b) *Eligibility requirements.*

(1) A small business shall meet the following requirements to participate in the SBPI:

(i) The business shall be a for-profit United States business that is independently owned.

(ii) The business may not be dominant in its field of operation nor a subsidiary of another business.

(iii) The business may not employ more than 100 full-time equivalent employees.

(iv) The business shall earn less than the amounts designated by the Department, that is, \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or information technology service business and \$7 million in gross annual revenues for those businesses performing building design services).

(2) The Department reserves the right to alter revenue limits. Changes will appear in the Department's guidelines at [www.smallbusiness.pa.gov](http://www.smallbusiness.pa.gov).

(c) *Limitation.* The Department's self-certification process as set forth in this section is limited to small business status and should not be construed as an endorsement of the small business expertise.

(d) *Program auditing.* The Department reserves the right to audit small business status either randomly or based on allegations of noneligibility. An applicant providing false information to the Commonwealth in connection with self-certification or as part of the bidding process is subject to debarment or suspension, exclusion from the SBPI, a determination that the bidder is not responsible under the Contractor Responsibility Program and criminal prosecution or other legal action.

#### § 58.304. Verification of Small Diverse Businesses.

(a) *Prerequisite.* To complete the verification process for consideration as a Small Diverse Business, the business shall, as a prerequisite, complete the self-certification process in § 58.303 (relating to self-certification of eligible small businesses) and present the resultant certificate as documentation in support of the verification process in this section.

(b) *Verification of Small Diverse Business status.* The Department will verify MBE, WBE, VBE or SDVBE status through the verification of certification from one or more of the following approved third-party entities:

(i) The Unified Certification Program.

(ii) The National Minority Supplier Development Council.

(iii) The Women's Business Enterprise National Council.

(iv) The United States Small Business Administration 8(a) Program.

(v) The United States Department of Veteran Affairs through the [www.VetBiz.gov](http://www.VetBiz.gov) business database.

(vi) Additional entities as identified, approved and publicly posted by the Department on its web site at [www.dgs.state.pa.us](http://www.dgs.state.pa.us).

(c) *Documentation.* Applicants shall submit proof of active certifications from approved third parties in accordance with the requirements outlined on the Department's web site. The Department reserves the right to request additional information and conduct further review or auditing as needed.

(d) *Existing certification transition.* The certifications of firms previously certified by the Department as MBE, WBE, VBE or SDVBE were valid through January 11, 2013, unless the firms successfully completed the Commonwealth's SBPI self-certification prior to January 11, 2013. A previously certified firm that obtained SBPI self-certification prior to January 11, 2013, automatically had its status as a Small Diverse Business extended to the same expiration date as the SBPI self-certification expiration. Prior to the SBPI self-certification expiration, a firm shall obtain approved third-party certification to maintain its status as a Small Diverse Business. A firm that fails to obtain approved third-party certification prior to the SBPI self-certification expiration date will have its status as a Small Diverse Business deemed "inactive" and will be unable to participate in the Small Diverse Business Program.

(e) *Single expiration date.* Regardless of the expiration date of the approved third-party certification, the expiration date of the Department verification as a Small Diverse Business is the same as the SBPI self-certification date. To maintain status as a Small Diverse Business, a firm shall provide an active third-party certification upon successfully recertifying as a small business.

(f) *Limitation.* The Department's verification process as set forth in this section is limited to Small Diverse Business status and should not be construed as an endorsement of Small Diverse Business expertise.

[Pa.B. Doc. No. 13-566. Filed for public inspection March 29, 2013, 9:00 a.m.]

## Title 55—PUBLIC WELFARE

### DEPARTMENT OF PUBLIC WELFARE

#### [ 55 PA. CODE CH. 6000 ]

#### Intellectual Disability Manual

##### Scope

This statement of policy applies to administrative entity administrators or directors, County Mental Health/Intellectual Disability Program administrators or directors, supports coordination organization directors, providers of intellectual disability services, State center directors, non-State intermediate care facility for persons with an intellectual disability directors and individuals, and families, relatives and surrogates.

##### Purpose

The purpose of this statement of policy is to rescind various statements of policy that are no longer current. Chapter 6000, Subchapters A, G, I—K and M are being rescinded.

##### Discussion

Upon review of the Office of Developmental Programs' (ODP) current statements of policy, it was determined that various subchapters in Chapter 6000 (relating to statements of policy) should be rescinded. These subchapters are being rescinded for various reasons. Some of these subchapters discussed general information or procedures that do not reflect current practice, while others contained information that is codified in Chapter 51 (relating to Office of Developmental Programs home and community-based services) or 23 Pa.C.S. Chapter 63 (relating to child protective services) or is in the approved Consolidated and Person/Family Directed Support Waivers.

##### Effective Date

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

##### Obsolete Bulletins

The following bulletins are obsolete:

6000-88-02, Mandatory Child Abuse and Criminal History Clearances

6000-89-02, Public Law 99-457, Part H Adoption of the 14 Components as Policy

6000-90-02, Support for Independent Living

6000-90-03, Supplemental Grant Agreement for the 2176 Waiver

6000-90-04, Provider Agreements Under 2176 Waiver

6000-90-05, Therapy and Other Specialized Services

6000-90-06, Policy on Employment for Persons with Mental Retardation

Intellectual disability bulletins are publically available. Bulletins issued in 1985 and later may be obtained on the Department of Public Welfare's (Department) web site at <http://services.dpw.state.pa.us/olddpw/bulletinsearch.aspx>. An ODP bulletin that is obsolete may still be viewed on the Department's web site at <http://www.dpw.state.pa.us>. An obsolete bulletin has a (\*) by the bulletin number.

##### Contact Person

Questions should be directed to the regional program manager at the appropriate regional ODP. Copies of this statement of policy may be obtained at the local Mental Health/Intellectual Disability County Program, administrative entity or regional ODP in the corresponding regions:

- *Western region:* Piatt Place, Room 4900, 301 5th Avenue, Pittsburgh, PA 15222, (412) 565-5144

- *Northeast region:* Room 315 Scranton State Office Building, 100 Lackawanna Avenue, Scranton, PA 18503, (570) 963-4749

- *Southeast region:* 801 Market Street, Suite 5071, Philadelphia, PA 19107, (215) 560-2242 or (215) 560-2245

- *Central region:* Room 430 Willow Oak Building, P. O. Box 2675, DGS Annex Complex, Harrisburg, PA 17105, (717) 772-6507

BEVERLY D. MACKERETH,  
*Acting Secretary*

(*Editor's Note:* Title 55 of the *Pennsylvania Code* is amended by deleting the statements of policy in §§ 6000.1—6000.3, 6000.21—6000.26, 6000.31, 6000.32, 6000.41—6000.44, 6000.601, 6000.641—6000.646,

6000.661—6000.666, 6000.681—6000.689, 6000.761—6000.765 and 6000.771—6000.778 to read as set forth in Annex A.)

**Fiscal Note:** 14-BUL-101. No fiscal impact; (8) recommends adoption.

### **Annex A**

## **TITLE 55. PUBLIC WELFARE**

### **PART VIII. INTELLECTUAL DISABILITY MANUAL**

#### **Subpart A. STATEMENTS OF POLICY**

#### **CHAPTER 6000. STATEMENTS OF POLICY**

##### **Subchapter A. (Reserved)**

Sec.  
6000.1—6000.3. (Reserved).  
6000.21—6000.26. (Reserved).  
6000.31. (Reserved).  
6000.32. (Reserved).  
6000.41—6000.44. (Reserved).

##### **Subchapter G. (Reserved)**

Sec.  
6000.601. (Reserved).

##### **Subchapter I. (Reserved)**

Sec.  
6000.641—6000.646. (Reserved).

##### **Subchapter J. (Reserved)**

Sec.  
6000.661—6000.666. (Reserved).

##### **Subchapter K. (Reserved)**

Sec.  
6000.681—6000.689. (Reserved).

##### **Subchapter M. (Reserved)**

Sec.  
6000.761—6000.765. (Reserved).  
6000.771—6000.778. (Reserved).

[Pa.B. Doc. No. 13-567. Filed for public inspection March 29, 2013, 9:00 a.m.]

## **Title 58—RECREATION**

### **PENNSYLVANIA GAMING CONTROL BOARD**

#### **[ 58 PA. CODE CH. 439b ]**

#### **Gaming Junket Representatives**

On January 9, 2013, the Pennsylvania Gaming Control Board (Board) adopted the statement of policy in § 439b.1 (relating to gaming junket representatives).

With the passage of the act of January 7, 2010 (P.L. 1, No. 1) (Act 1), provisions were added to 4 Pa.C.S. Part II (relating to gaming) requiring junket representatives and enterprises to obtain an occupation permit and license, respectively, before a junket to a licensed facility could be organized. Notwithstanding that requirement, 4 Pa.C.S. Part II provided that individuals who held an occupation permit and were employed by a slot machine licensee could perform the functions of a junket representative.

This statement of policy contains the Board's interpretation of 4 Pa.C.S. Part II and establishes criteria that Board staff will use to determine whether an individual is a bona fide employee of a slot machine licensee. Based on the criteria, if the individual is not in fact an employee of a slot machine licensee, the junket enterprise and repre-

sentative will be required to be licensed/permitted in accordance with Chapter 439a (relating to junket enterprises).

Additionally, with this statement of policy, the Board approved the awarding of conditional licenses to junket enterprises that have passed a preliminary review of their applications and have been vetted in another gaming jurisdiction with similar standards. Conditional licensure should allow junket enterprises to provide their services to a slot machine licensee prior to completion of the full background investigation, much like conditional licensure of manufacturers and suppliers and interim authorization of gaming service providers.

#### *Contact Person*

The contact person for questions about this statement of policy is Susan A. Yocum, Assistant Chief Counsel, Pennsylvania Gaming Control Board, (717) 346-8324.

#### *Effective Date*

This statement of policy is effective upon publication.

WILLIAM H. RYAN, Jr.,  
*Chairperson*

(*Editor's Note:* Title 58 of the *Pennsylvania Code* is amended by adding the statement of policy in § 439b.1 to read as set forth in Annex A.)

**Fiscal Note:** 125-167. No fiscal impact; (8) recommends adoption.

### **Annex A**

## **TITLE 58. RECREATION**

### **PART VII. GAMING CONTROL BOARD**

#### **Subpart B. LICENSING, PERMITTING, CERTIFICATION AND REGISTRATION**

#### **CHAPTER 439b. GAMING JUNKET REPRESENTATIVES—STATEMENT OF POLICY**

##### **§ 439b.1. Gaming junket representatives.**

(a) This section clarifies the act as it relates to an individual who is employed by a slot machine licensee and performs the same functions as a junket representative. Section 1604(c) of the act (relating to gaming junket representatives) states that an individual who is employed by a slot machine licensee and holds a valid occupation permit may act as a junket representative, even if the individual is not a resident of this Commonwealth.

(1) Board staff will evaluate the following indicia of employment to determine if an individual is a bona fide employee of a slot machine licensee:

(i) The individual receives a W-2 Form, wage and tax statement, from the slot machine licensee.

(ii) The slot machine licensee has the right to control or direct what work shall be done and how it shall be performed.

(iii) The individual is reimbursed by the slot machine licensee for business expenses incurred on behalf of the licensee.

(iv) The individual participates in or receives benefits from the licensee such as insurance, pension plan, vacation pay or sick pay.

(2) The individual will not be considered an employee of the slot machine licensee if one of the following conditions is met:

(i) The individual receives an IRS Form 1099, miscellaneous income form, from the slot machine licensee.

(ii) The individual is licensed or otherwise credentialed in another gaming jurisdiction as a junket enterprise/organizer or provides the same or similar services to gaming facilities in other markets.

(b) If the individual is not a bona fide employee of a slot machine licensee under subsection (a), the individual must be permitted as a junket representative and the junket enterprise must be licensed in accordance with the act and Chapter 439a (relating to junket enterprises).

(c) The Board may grant an applicant for a gaming junket enterprise license a conditional license to conduct business in this Commonwealth. To be eligible to obtain a conditional gaming junket enterprise license, the applicant shall:

(1) Submit a completed gaming junket enterprise license and gaming junket representative permit application, including the nonrefundable application fee as posted on the Board's web site, and pass a preliminary review.

(2) Submit agreements entered into between the slot machine licensee and the gaming junket enterprise or representative.

(3) Be licensed or credentialed, in good standing, to arrange or negotiate the terms of a gaming junket in a jurisdiction in the United States or Canada that the Board has determined has licensing standards that are as comprehensive and thorough and provide similar adequate safeguards as those required under the act.

(4) Pass a preliminary review of the applicant's criminal history.

(5) Agree, in writing, that the grant of permission to conduct business with a conditional license does not create a right to continue to conduct business and that the Bureau of Licensing may rescind, at any time, the conditional licensure granted to the applicant, with or without prior notice to the applicant, if the Bureau of Licensing is notified that the suitability of the applicant is at issue or the applicant fails to cooperate in the application process.

(d) If the Office of Enforcement Counsel issues a Notice of Recommendation for Denial to an applicant that has received a conditional gaming junket enterprise license, the Bureau of Licensing may rescind the conditional license. If the conditional license is rescinded, the gaming junket enterprise shall cease conducting business by the date specified in the notice of the rescission sent to the conditional licensee.

(e) When the Bureau of Licensing rescinds a conditional license, the Bureau of Licensing will notify the holder of the conditional license and the slot machine licensee by registered mail that:

(1) Permission for the conditional licensee to conduct business has been rescinded.

(2) Slot machine licensees shall cease conducting business with the gaming junket enterprise by the date specified in the notice.

(f) Pending a hearing on the Notice of Recommendation for Denial, the conditional licensee may not seek or conduct new business in this Commonwealth.

(g) The slot machine licensee shall investigate the background and qualifications of the applicant for a gaming junket enterprise license with whom the slot machine licensee intends to have a relationship or enter into a contractual agreement.

(h) The slot machine licensee has an affirmative duty to avoid agreements or relationships with a person applying for a gaming junket enterprise license whose background or association is injurious to the public health, safety, morals, good order and general welfare of the people of this Commonwealth or who threatens the integrity of gaming in this Commonwealth.

(i) The slot machine licensee has a duty to inform Board staff of an action by an applicant for or holder of a gaming junket enterprise license which the slot machine licensee believes would constitute a violation of the act or the Board's regulations.

[Pa.B. Doc. No. 13-568. Filed for public inspection March 29, 2013, 9:00 a.m.]