

THE GOVERNOR

Title 4—ADMINISTRATION

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 1]

[EXECUTIVE ORDER NO. 2015-02]

Competitive Process for Procurement of Legal Services

January 20, 2015

Whereas, Section 515 of the Commonwealth's Procurement Code exempts various categories of "Sole Source" contracts from the requirement of competitive bidding, including when services are to be provided by attorneys or litigation consultants selected by the Office of General Counsel, the Office of Attorney General, the Department of the Auditor General or the Treasury Department; and

Whereas, the Office of General Counsel has, in reliance on Section 515 and with the approval of the Governor, engaged private counsel to represent the Commonwealth or its employees in civil or criminal matters without utilizing a competitive bidding process; and

Whereas, competitive bidding for legal services should be used to the maximum extent feasible prior to engaging private counsel to represent the Commonwealth or its employees in civil or criminal matters; and

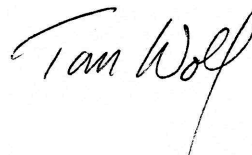
Whereas, Section 512.1 of the Procurement Code includes an alternate process for obtaining services through the use of "competitive electronic auction bidding;" and

Whereas, Section 518 of the Procurement Code includes an alternative process for lawyers and other professionals under the heading "Competitive Selection Procedures for Certain Services;" and

Whereas, in many cases, the need to retain private counsel can be predicted and planned for sufficiently in advance to engage in competitive bidding; and

Whereas, procuring legal services through a competitive procurement process wherever possible will provide greater assurance that legal expenditures are efficiently utilized, will result in a more transparent selection process, and will enhance public perception that the process is fair and not influenced by political or other improper considerations.

Now, Therefore, I Thomas W. Wolf, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby direct as follows.



Governor

Fiscal Note: GOV-15-02. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 1. AGENCY OPERATION AND ORGANIZATION

Subchapter AAA. COMPETITIVE PROCESS FOR PROCUREMENT
OF LEGAL SERVICES

Sec.

- 1.801. Contracts conducted on the basis of competitive bidding procedures.
- 1.802. Contracts awarded on a sole source basis.
- 1.803. Request for authorization for outside counsel.
- 1.804. Request for proposals and invitation for bids.
- 1.805. Role of General Counsel.
- 1.806. Effective date.

§ 1.801. Contracts conducted on the basis of competitive bidding procedures.

Except as set forth in this subchapter, the awarding of contracts for legal services or legal consultants by the Office of General Counsel or an executive department shall be conducted on the basis of the competitive bidding procedures in 62 Pa.C.S. § 512.1 or § 518 (relating to competitive electronic auction bidding; and competitive selection procedures for certain services).

§ 1.802. Contracts awarded on a sole source basis.

Legal service or legal consultant contracts shall be awarded on a sole source basis only when it is clearly not feasible to utilize competitive bidding because of an urgency of need or other documented circumstances.

§ 1.803. Request for authorization for outside counsel.

When an executive department determines that the paid services of outside counsel are required, it shall submit to the Office of General Counsel a request for authorization to proceed. The request for authorization must succinctly state:

- (1) A written justification that the department does not have the legal or financial resources to pursue the action on its own.
- (2) A detailed estimate of the time and labor that will be required.
- (3) A description of the specific legal expertise needed.
- (4) A determination that the need for this legal support is both cost-effective and in the public's best interest.

§ 1.804. Request for proposals and invitation for bids.

Upon receipt of written authorization to proceed from the General Counsel, the department may issue a request for proposals under 62 Pa.C.S. § 518 (relating to competitive selection procedures for certain services) or an invitation for bids under 62 Pa.C.S. § 512.1 (relating to competitive electronic auction bidding).

§ 1.805. Role of General Counsel.

The General Counsel shall, as soon as practicable:

- (1) Identify categories of legal services or types of cases that may be supplied by outside lawyers or law firms, or both.
- (2) Develop a competitively bid list of preapproved outside counsel for emergency situations.
- (3) Identify the circumstances in which the awarding of legal services on a sole source basis is justified based on the criteria in § 1.802 (relating to contracts awarded on a sole source basis) and those that must be subject to competitive bidding under either 62 Pa.C.S. § 512.1 or § 518 (relating to

competitive electronic auction bidding; and competitive selection procedures for certain services).

(4) Implement a system to award those contracts in accordance with those provisions.

§ 1.806. Effective date.

This subchapter takes effective immediately.

[Pa.B. Doc. No. 15-218. Filed for public inspection February 6, 2015, 9:00 a.m.]

PART I. GOVERNOR'S OFFICE
[4 PA. CODE CH. 7]
[EXECUTIVE ORDER NO. 2015-01]
Executive Branch Employee Gift Ban

January 20, 2015

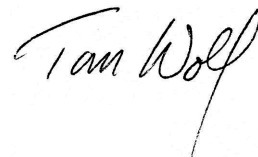
Whereas, the citizens of the Commonwealth are entitled to confidence in the integrity of the government, including the process by which decisions and administrative actions are rendered by employees of the Commonwealth; and

Whereas, such confidence in the integrity of the government demands that significant contact between Commonwealth Executive Employees and special interests, lobbyists and those who employ lobbyists seeking to influence the decisions and administrative actions of such employees, be regulated and publicly disclosed; and

Whereas, the Constitution of Pennsylvania vests supreme executive power in the Governor, which power includes the prerogative to establish practices and proceedings before executive agencies and to regulate actions that may influence, or have the potential to influence, the outcome of decisions and administrative actions of executive branch employees; and

Whereas, the Code of Conduct adopted by Executive Order 1980-18, as amended ("Code of Conduct"), restricts and requires disclosure of the receipt by employees, appointees and officials of the Executive Branch of the Commonwealth of gifts, gratuities, favors, entertainment, loans or any other thing of monetary value, including in-kind gifts, from persons doing or seeking to do business with the Commonwealth or with interests that are substantially affected by decisions of Commonwealth officials.

Now Therefore, I, Thomas W. Wolf, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby reaffirm the Code of Conduct for Commonwealth Employees, and promulgate the following amendments to such Code of Conduct to clarify the applicability of the Code of Conduct generally and to strengthen and expand the provisions regarding prohibitions on the receipt of gifts.



Governor

(Editor's Note: This Executive Order is effective immediately.)

Fiscal Note: GOV-15-01. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 7. MISCELLANEOUS PROVISIONS

Subchapter K. CODE OF CONDUCT FOR APPOINTED OFFICIALS
AND STATE EMPLOYEES

RESTRICTED ACTIVITIES: CONFLICTS OF INTEREST

§ 7.153. Gifts and favors.

(a) No employee, appointee or official in the Executive Branch of the Commonwealth may solicit or accept for the personal use of the employee or another, a gift, gratuity, favor, entertainment, hospitality, loan or any other thing of monetary value, including in-kind gifts, from a person who:

(1) Is seeking to obtain business from or has financial relations with the Commonwealth.

(2) Conducts operations or activities that are regulated by the Commonwealth.

(3) Is engaged, either as principal or attorney, in proceedings before the Commonwealth or in court proceedings in which the Commonwealth is an adverse party.

(4) Has interests that may be substantially affected by the performance or nonperformance of the official duty of the employee.

(b) The only exceptions are limited to the following instances:

(1) The solicitation or acceptance of something of monetary value from a friend, parent, spouse, child or other close relative under circumstances which make it clear that the gift is motivated by a family relationship or personal friendship rather than the position of the employee. Relevant factors in making a determination include the history of the relationship (for example, does the friendship predate employment by the Commonwealth) and whether the family member or friend pays for the gift.

(2) The acceptance of loans from banks or other financial institutions on customary terms of finance for proper and usual activities, such as home mortgage loans.

(3) Participation in widely attended gatherings free of charge is permissible when officials have been invited and are acting in furtherance of their official duties. But no food or drink can be accepted without payment at market value.

[Pa.B. Doc. No. 15-219. Filed for public inspection February 6, 2015, 9:00 a.m.]

PART I. GOVERNOR'S OFFICE
[4 PA. CODE CHS. 7 AND 7a]
[EXECUTIVE ORDER NO. 2011-03]
Public Private Partnership

May 3, 2011

Whereas, Pennsylvania has dramatically low national rankings in areas of key economic indicators, such as job creation, population growth, new business start-ups, patent creation and the average educational attainment for its workforce; and

Whereas, the commonwealth's economic development goals include developing an innovation-driven economy, ensuring that all Pennsylvania's children can achieve their full potential through access to a first-class education, increasing wealth-generating job opportunities for all citizens,

encouraging small business growth, significantly reducing the burdens government places on businesses and citizens, expanding Pennsylvania-based business export opportunities, and harnessing Pennsylvania's energy potential; and

Whereas, successful economic development must be sustainable, contribute lasting economic benefits, provide a solid education that prepares students to compete in a global economy, and evaluate workforce and education options and opportunities in order to ensure an improved quality of life for Pennsylvania's people and communities; and

Whereas, commonwealth taxpayers for too long have been unduly burdened with, and relied upon for, sustaining Pennsylvania's many levels of state and local governments; and

Whereas, merely improving government policies and programs is insufficient to surmount the significant economic challenges facing the commonwealth; and

Whereas, the use of a public private partnership to bring business, government, community, and education leaders together is essential to accomplishing these goals; and

Whereas, Pennsylvania is fortunate in having an abundance of world-class private sector resources and leaders who desire to better their communities and the commonwealth; and

Whereas, Team Pennsylvania Foundation is a dynamic resource for Pennsylvania, created as a nonprofit corporation incorporated in 1997, under 15 Pa.C.S. Subpart C (relating to Nonprofit Corporation Law of 1988), in order to assist the commonwealth in increasing job growth, retention and creation within Pennsylvania.

Now, Therefore, I, Tom Corbett, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby recognize, affirm and celebrate the economic development partnership between the commonwealth and the Team Pennsylvania Foundation.



Governor

Fiscal Note: GOV-11-03. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 7. MISCELLANEOUS PROVISIONS

Subchapter Z. (Reserved)

§§ 7.361—7.363. (Reserved).

§ 7.367. (Reserved).

CHAPTER 7a. ADDITIONAL MISCELLANEOUS PROVISIONS

Subchapter I. COMMONWEALTH PARTNERSHIP WITH TEAM PENNSYLVANIA FOUNDATION

Sec.	
7a.101.	Purpose.
7a.102.	Cooperation of State agencies.
7a.103.	Appointments.
7a.104.	Applicability.
7a.105.	Effective date.
7a.106.	Rescission.

§ 7a.101. Purpose.

The purpose of the affirmation of the partnership between the Commonwealth and Team Pennsylvania Foundation is to advance innovation, efficiency and transparency within the government at the State and local levels, stimulate business growth in this Commonwealth, ensure excellent and accessible education options, and help create domestic and international business opportunities for job creators in this Commonwealth.

§ 7a.102. Cooperation of State agencies.

Agencies under the Governor's jurisdiction shall recognize the Team Pennsylvania Foundation as a unique and trusted partnership with the Commonwealth and cooperate with and support it to the extent permissible under applicable laws, policies and regulations to assist it in pursuing the common mission of creating and expanding opportunities for businesses and individuals to succeed in this Commonwealth.

§ 7a.103. Appointments.

To help ensure private sector engagement and participation, the Governor will endeavor to include Team Pennsylvania Foundation leadership on relevant commissions, boards and appointments to other bodies and positions, as appropriate.

§ 7a.104. Applicability.

This subchapter is intended to promote the attainment of the mission and goals of the Team Pennsylvania Foundation insofar as they enhance the economic betterment of this Commonwealth, and is not intended to create any right or benefit, whether substantive or procedural, that is enforceable at law or equity by any party against the Commonwealth, its agencies, officers or employees, or against any other person.

§ 7a.105. Effective date.

This subchapter takes effect immediately.

§ 7a.106. Rescission.

Effective immediately, Executive Order 2001-4 is rescinded.

[Pa.B. Doc. No. 15-220. Filed for public inspection February 6, 2015, 9:00 a.m.]

GOVERNOR'S OFFICE

Proclamation of Disaster Emergency

January 26, 2015

Whereas, A severe winter event is impacting the Commonwealth of Pennsylvania, causing dangerous winter weather conditions including snow and ice accumulation; and

Whereas, this emergency event has the potential to cause significant adverse impacts upon the population throughout the Commonwealth; and

Whereas, this emergency event may prompt affected county and municipal governments to declare local disaster emergencies because of the winter weather conditions; and

Whereas, the emergency event is of such magnitude or severity as to render essential the Commonwealth's supplementation of county and municipal efforts and resources and the activation of all applicable state, county and municipal emergency response plans.

Now Therefore, pursuant to the provisions of Subsection 7301(c) of the Emergency Management Services Code (35 Pa.C.S. Section § 7101 et seq.) I do hereby proclaim the existence of a disaster emergency in the Commonwealth and authorize and direct that the Pennsylvania Emergency Management Agency Director or designee assume command and control of all

statewide emergency operations and that all Commonwealth departments and agencies, under the direction of the Pennsylvania Emergency Management Agency Director or designee, utilize all available resources and personnel as is deemed necessary to cope with the magnitude and severity of this emergency event.

Further, I hereby transfer up to \$250,000 in unused appropriated funds to the Pennsylvania Emergency Management Agency, which amount may be increased or decreased as conditions require. The aforementioned funds shall be used for disaster-related expenses incurred by various state agencies and departments. These funds shall be credited to a special account established by the Office of the Budget. All Commonwealth agencies purchasing supplies or services in response to this emergency are authorized to utilize the emergency procurement procedures set forth in Section 516 of the Commonwealth Procurement Code, 62 Pa.C.S. § 516. This Proclamation shall serve as the written determination of the basis for the emergency under Section 516; and

Further, I hereby direct the Pennsylvania Emergency Management Agency to staff the State Emergency Operations Center for the duration of this emergency event and to augment it with personnel from other state agencies and departments. I also authorize the Agency to direct and coordinate the emergency response, recovery, and mitigation activities of other state agencies and departments as deemed necessary to deal with the exigencies of this disaster emergency through implementation of the State Emergency Operations Plan; and

Further, I hereby authorize the Secretary of Transportation to use all available equipment, resources, and personnel of the Department, in whatever manner that she deems necessary, to ensure that all state highways in the areas that may be affected by the emergency event are cleared of snow, debris and any other obstructions resulting from this event and to ensure that highways, bridges, roadbeds, and related facilities and structures, including federal-aid highways, that may sustain damage in the disaster affected areas are immediately repaired, maintained, reconstructed, or replaced, or that new construction is undertaken where necessary. In addition, I hereby waive any laws or regulations that would restrict the application and use of the Department's equipment, resources, and personnel to assist local jurisdictions in the repairs and clearing and removal of snow, debris and other types of obstructions from non-state-owned highways. This assistance to local jurisdictions may be provided solely at the discretion of the Secretary of Transportation. This assistance, however, does not apply to privately owned highways, roads, streets, or other types of property; and I hereby authorize the Secretary of Transportation, in her sole discretion, to waive any provision of the Vehicle Code or any other law or regulation which she is authorized by law to administer or enforce as may be necessary to respond to this emergency event; and

Further, if investigations made on my behalf determine that the Commonwealth is in need of greater flexibility in the application of state and federal motor carrier regulations to accommodate truck drivers in the finding and transporting of fuel, food or other commodities across the state to provide emergency relief during this event, I hereby direct the Department of Transportation to waive any laws or Federal or state regulations related to drivers of commercial vehicles; and

Further, pursuant to the powers vested in me by the Constitution and laws of this Commonwealth (51 Pa.C.S. § 508), I hereby authorize the Adjutant General of Pennsylvania to place on state active duty for the duration of this disaster emergency proclamation, such individuals and units of the Pennsylvania National Guard, as requested by the Pennsylvania Emergency Management Agency, to alleviate the danger to public health and safety caused by this emergency event; and

Further, I hereby authorize the Commissioner of the Pennsylvania State Police to use all available resources and personnel of the Department, in

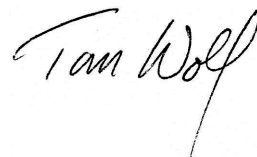
whatever manner he deems necessary, to aid in the recovery aspects related to all interstate, other federal and state highways in the Commonwealth to address this emergency event; and

Further, I hereby direct that the emergency response, recovery, and mitigation aspects of the Commonwealth and all applicable county, municipal, and other emergency response plans be activated and that all state, county, and municipal actions taken to implement those plans be coordinated through the Pennsylvania Emergency Management Agency; and

Further, I hereby suspend the provisions of any other regulatory statute prescribing the procedures for conduct of Commonwealth business, or the orders, rules or regulations of any Commonwealth agency, if strict compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with this emergency event. All Commonwealth agencies may implement their emergency assignments without regard to procedures required by other laws, except mandatory constitutional requirements, pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, and expenditures of public funds; and

Still Further, I hereby urge the governing bodies and executive officers of all political subdivisions that may be affected by this emergency event to act as necessary to meet the current exigencies as legally authorized under this proclamation, including by the employment of temporary workers; by the rental of equipment; and by entering into such contracts and agreements as may be required to meet the emergency, all without regard to those time-consuming procedures and formalities normally prescribed by law, mandatory constitutional requirements excepted.

Given under my hand and the Seal of the Governor, at the City of Harrisburg, on this twenty-sixth day of January in the year of our Lord two thousand fifteen, and of the Commonwealth the two hundred and thirty-ninth.



Governor

[Pa.B. Doc. No. 15-221. Filed for public inspection February 6, 2015, 9:00 a.m.]