

# THE GOVERNOR

## Title 4—ADMINISTRATION

### PART I. GOVERNOR'S OFFICE

[ 4 PA. CODE CH. 1 ]

[ EXECUTIVE ORDER NO. 2023-18 ]

#### Improving State Government Contracting Opportunities for Pennsylvania's Small Businesses and Small Diverse Businesses

September 5, 2023

*Whereas*, the Commonwealth recognizes that the majority of economic growth stems from the growth of small businesses and small diverse businesses and that the Commonwealth's economic development strategy must involve solutions that specifically address the needs of small businesses and small diverse businesses; and

*Whereas*, the Commonwealth is committed to providing equality and opportunity for all Pennsylvanians, including increased access to economic opportunity; and

*Whereas*, this Administration understands that for Pennsylvania to have a thriving economy, everyone must have access and the opportunity to participate in a transparent government procurement process that supports small businesses and small diverse businesses; and

*Whereas*, by previous Executive Orders and pursuant to law, Commonwealth agencies under the Governor's jurisdiction (Agencies) have all been directed to encourage greater participation from small businesses and small diverse businesses; and

*Whereas*, in 2017, the Commonwealth commissioned its first-ever comprehensive disparity study to help inform the Department of General Services (DGS) and the Department of Transportation (DOT) in implementing a Small Diverse Business and Disadvantaged Business Enterprise Program, respectively, to encourage the participation of small diverse businesses in Pennsylvania's government procurement process; and

*Whereas*, this Administration recognizes the need for continued improvements to the Small Diverse Business Program by expanding the opportunity available to small diverse businesses, increasing the Commonwealth's operational spend for small diverse businesses, and enhancing data reporting; and

*Whereas*, comprehensive technical and business support from Agencies is paramount to increase opportunities for small businesses and small diverse businesses to compete for state government contracts, to improve the Commonwealth procurement process, and to achieve continued equitable economic growth for small businesses and small diverse businesses.

*Now, Therefore*, I, Josh Shapiro, 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 of the Commonwealth, do hereby order and direct as follows:



Governor

**Fiscal Note:** GOV-2023-18. No fiscal impact; recommends adoption.

**Annex A**  
**TITLE 4. ADMINISTRATION**  
**PART I. GOVERNOR'S OFFICE**  
**CHAPTER 1. AGENCY OPERATION AND ORGANIZATION**  
**Subchapter DDD. [Reserved]**

§§ 1.831—1.834. [Reserved].

**Subchapter MMM. IMPROVING STATE GOVERNMENT  
CONTRACTING OPPORTUNITIES FOR COMMONWEALTH SMALL  
BUSINESSES AND SMALL AND DIVERSE BUSINESSES**

Sec.	
§ 1.921.	Definitions.
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**§ 1.921. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Agency*—A Commonwealth agency under the Governor's jurisdiction.

*CDFI*—Community development financial institutions.

*CODE PA*—The Commonwealth Office of Digital Experience.

*DCED*—The Department of Community and Economic Development of the Commonwealth.

*DGS*—The Department of General Services of the Commonwealth.

*DOT*—The Department of Transportation of the Commonwealth.

*PACIP*—The Pennsylvania Advisory Council for Inclusive Procurement.

*SBR*—Small business reserve.

**§ 1.922. Responsibilities.**

(a) DGS shall lead and coordinate efforts with agencies to increase their participation in the Commonwealth's SBR program. DGS shall post data on a semiannual basis for each agency's total qualifying operational spend for SBR procurements.

(b) The Secretary of General Services shall utilize the United States Small Business Administration's methodology and Commonwealth-specific data to inform the Commonwealth's definition of a small business as it relates to the highest revenue limit.

(c) DGS and DOT shall collaboratively undertake joint initiatives to facilitate an open, inclusive and accessible contracting environment with the goal of increasing small businesses and small diverse businesses spending as a percentage of all dollars paid for goods and services by the agencies for their respective programs. These initiatives include the following:

(1) *Undertaking outreach and engagement with prospective small diverse businesses.* DGS and DOT shall use internal resources to develop and execute an outreach strategy to identify relevant small diverse businesses doing business in this Commonwealth that could provide goods or services to the Commonwealth. DGS and DOT shall leverage external partners, including small business development centers, incubators, CDFIs, local governments, chambers of commerce and anchor institutions, to identify and connect with small diverse businesses.

(2) *Connecting firms to wraparound business assistance.* DGS and DOT shall partner with DCED and external partners to connect small businesses and small diverse businesses doing business with the Commonwealth to curriculum and services to support financial management, and strengthen their overall project management, navigate bonding and insurance requirements, and access government contracting opportunities, including provid-

ing effective responses to solicitations. These resources shall be deployed through trainings and, where possible, highlighted on the DGS and DOT web sites.

(3) *Developing consistent and regular data reporting.* DGS shall develop an internal data dashboard and reporting mechanisms to provide regularly updated information on agencies' procurement spending levels and percentages, including data on the agencies' small business and small diverse business programs. DGS shall post a list of all previous contracts awarded to small businesses and small diverse businesses and awarded prime contractor's engagement of small subcontractors and small diverse subcontractors from Fiscal Year 2018 forward, including a standardized dataset on awarded contracts by category and spend amounts.

(4) *Promoting efficient verification.* DGS shall ensure completed verification requests take no longer than 10 business days to approve.

(5) *Ensuring prompt vendor payments.* DGS shall establish a policy that directs agencies' prime contractors in bid solicitations for contracts for goods and services to pay their small business subcontractors and small diverse business subcontractors within 10 days of completed, acceptable deliverables and after receipt of payment from the Commonwealth.

(6) *Promoting financing and capital access options.* DGS and DOT, in partnership with DCED, shall facilitate partnerships with external partners, including CDFIs, to promote financial tools, training and resources that serve small businesses and small diverse businesses. Additionally, DGS and DOT shall solicit feedback from the small business and small diverse business communities to inform PACIP on matters that may assist in the improvement of existing and potential future Commonwealth-based loan programs and explore pilot programs that address capital access issues.

(7) *Facilitating beneficial partnerships between prime contractors and subcontractors.* DGS and DOT shall facilitate more efficient matching and partnerships between prime contractors and available subcontractors, and vice-versa, by industry, capability and region.

(8) *Creating a mentor-protégée program.* DGS and DOT shall lead and coordinate efforts to increase small business and small diverse business participation in mentor-protégée programs across this Commonwealth, working to streamline and collaborate on existing partnership initiatives.

(9) *Delivering a comprehensive and consistent user experience for businesses in this Commonwealth.* DGS and DOT shall partner with CODE PA to promote a whole government approach to support all small businesses and small diverse businesses through an integrated digital experience. This approach shall support small businesses and small diverse businesses accessing available Commonwealth resources to assist them with navigating the procurement process.

**§ 1.923. Pennsylvania Advisory Council for Inclusive Procurement.**

(a) *Establishment.* There is hereby established the Pennsylvania Advisory Council for Inclusive Procurement to advise the Governor's Office and agencies on ways to improve contracting opportunities in this Commonwealth.

(b) *Membership.*

(1) The PACIP shall be chaired by the Lieutenant Governor, with the Secretary of General Services and the Secretary of Transportation serving as co-vice chairpersons.

(2) The Secretary of Community and Economic Development, Secretary of Labor and Industry and the Secretary of Banking and Securities shall be members of the PACIP.

(3) Additional PACIP members shall be appointed to a 2-year rotating term by the Governor and shall serve at his pleasure. These additional PACIP members may be recommended to the Governor by the chairperson and co-vice chairpersons and shall be comprised of small diverse business stakeholders.

(4) Members of the PACIP shall receive no compensation for their service on the PACIP.

(c) *Meeting.* Beginning no later than December 31, 2023, the PACIP shall meet quarterly to provide input and feedback on program goals, metrics and policies, as determined by the chairperson and co-vice chairpersons.

**§ 1.924. Interagency workgroup.**

The Secretary of General Services and the Secretary of Transportation shall designate employees of their departments to serve on an interagency workgroup to execute and report on the responsibilities set forth in § 1.922(c) (relating to responsibilities). The Lieutenant Governor shall work with the Secretary of General Services and the Secretary of Transportation to determine the reporting mechanisms of the interagency workgroup to the PACIP, including the content, frequency and format of its reporting.

**§ 1.925. Implementation.**

Agencies shall take all steps necessary to implement this subchapter. This subchapter shall be implemented consistent with applicable law. This subchapter is not intended to, and does not create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the Commonwealth, its departments, agencies or entities, its officers, employees or agents, or any other persons. Independent agencies are also strongly encouraged to participate.

**§ 1.926. Effective date.**

This subchapter shall take effect immediately and shall remain in effect until amended or rescinded by the Governor.

**§ 1.927. Rescission.**

Effective immediately, Executive Order 2015-11—Diversity, Inclusion and Small Business Opportunities in Commonwealth Procurement and in Pennsylvania's Economy, dated September 23, 2015, is hereby rescinded.

*(Editor's Note: 4 Pa. Code Chapter 1, Subchapter DDD, §§ 1.831—1.834, which is the codification of Executive Order 2015-11, is reserved as a result of the rescission of Executive Order 2015-11 under § 1.927.)*

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