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Authority
The provisions of this Part I issued under Article IV of the Constitution of Pennsylvania, unless otherwise noted.

Note
Filing with the Legislative Reference Bureau and publication in the Pennsylvania Code is ordinarily not a prerequisite to the general validity of Executive Orders, Executive Directives and Proclamations, since section 208 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1208) applies only to “administrative regulations,” a term which under section 102 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1102) excludes “a proclamation, executive order, executive directive or other similar document promulgated by the Governor.” However, under 1 Pa. Code § 3.1(a)(1) and (2) (relating to contents of Code) all Executive Orders and Proclamations which are general and permanent in nature and all gubernatorial regulations are required to be published in the Pennsylvania Code. Under 45 Pa.C.S. § 903(a) (relating to effective date of documents) no such gubernatorial document shall be valid as against any person who has not had actual knowledge thereof until such publication has been effected (or waived, for example, under 1 Pa. Code § 3.41(b) (relating to matter not required to be published); see also 1 Pa. Code § 13.74 (relating to effectiveness prior to publication)). The foregoing requirement for publication of gubernatorial documents took effect with respect to documents adopted on or after August 4, 1970. All prior gubernatorial documents have been either readopted or republished since that date or rescinded. See Executive Order 1978-13, 8 Pa.B. 2870.

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Subchapter A. DIRECTIVES MANAGEMENT SYSTEM

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1.1. Establishment.
1.2. Policy.
1.3. Responsibility.
1.3a. Rescission.
1.4. Index of Issuances.
1.5. Office hours.

Source
The provisions of this Subchapter A adopted October 22, 1976, 6 Pa.B. 2640, unless otherwise noted.

Cross References
§ 1.1. Establishment.

The Directives Management System, established in 1972, is designed to provide comprehensive statements of policy and procedure on matters that affect agencies and employees under the Governor’s jurisdiction.

Source


Notes of Decisions


Pursuant to the Management Directive issued by the Governor’s Office in 1980, the dismissed employee’s position was designated as a major nontenured policy making or advisory position; thus, the employee was not entitled to unemployment compensation benefits. *Zerbe, Jr. v. Unemployment Compensation Board of Review*, 681 A.2d 740 (Pa. 1996).

§ 1.2. Policy.

All issuances from the Governor’s Office and from agencies under the Governor’s jurisdiction, except proclamations and press releases, that are intended for distribution to two or more agencies are to be issued through the Directives Management System in one of four types of publications.

1. Executive Orders, signed by the Governor, announce broad policies, programs, and responsibilities that are relatively permanent.

2. Management Directives announce detailed policies, programs, responsibilities, and procedures that are relatively permanent. Management Directives are to be signed by the Governor, Lieutenant Governor, Secretary of the Budget, Secretary of Administration, or the head of any department or independent board, commission or council under the Governor’s jurisdiction.

3. Administrative Circulars contain either informational material or instructions that are one-time or temporary in nature. Administrative Circulars are to be signed the same as Management Directives.

4. Procedural issuances contain detailed information and guidelines for relatively restricted, well-defined operations or sets of operations. Procedural issuances may be manuals, handbooks, catalogs, guides or similar publications. Manuals are to be signed the same as Management Directives.

Source

The provisions of this § 1.2 amended by Executive Order No. 2001-1, dated February 13, 2001, 31 Pa.B. 1455. Immediately preceding text appears at serial pages (268055) and (200839).

Notes of Decisions

General


A directive issued under this section satisfies the official designation requirements of 43 P. S. § 892(11) because it was issued under a “Statute, regulation, executive order or the like.” Bowe v. Unemployment Compensation Board of Review, 477 A.2d 587 (Pa. Cmwlth. 1984).

Where the designation of claimant’s position as advisory was issued under this section, such designation applied to claimant’s unemployment compensation claim even though claimant began employment before the designation was made. Ging v. Unemployment Compensation Board of Review, 479 A.2d 37 (Pa. Cmwlth. 1984).

Cross References
This section cited in 4 Pa. Code § 1.4 (relating to index of issuances).

§ 1.3. Responsibility.
(a) The Secretary of Administration is responsible for operating the Directives Management System. Those responsibilities include the issuance of detailed instructions for operation of the system, ensuring that communications are reviewed for completeness and for their impact on other agencies and procedures, assuring consistency between publications, editing, maintenance of a distribution scheme, periodic publication of an index to current issuances and maintenance of back-up files on items issued.
(b) Originating offices are responsible for the technical content and propriety of all documents issued through the Directives Management System.

Source

§ 1.3a. Rescission.
Executive Order 1974-7, published at 6 Pa.B. 2640 (October 23, 1976), is rescinded.

Source

§ 1.4. Index of Issuances.

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<td>MD 580.10 Documentation of Classified Service Personnel Actions</td>
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### SUPPLIES, SERVICES, AND EQUIPMENT

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<td>MD 625.2 Inventory of Commonwealth Real Property</td>
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<td>MD 625.8 Contracting for Bargaining Unit Work</td>
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**Source**

§ 1.5. Office hours.

(a) Under sections 221 and 709(d) of The Administrative Code of 1929 (71 P. S. §§ 81 and 249(d)), the Executive Board has, in a resolution dated September 26, 1985, determined the hours when the central administrative offices of State Government are to be open for the transaction of public business at least 8 hours each day, except Saturdays, Sundays, and selected holidays as determined by the Executive Board.

(b) An agency may authorize employees to work a standard schedule at hours outside the office hours shown on the schedule of office hours. An agency may assign employees to work staggered work hours to meet program or operational needs, or approve employee requests to accommodate transportation, family care, education, or other compelling reasons. An agency also may establish, with Office of Administration approval, alternate work schedules and flex-time arrangements for operational units that measurably will improve efficiency and/or client service. Such scheduling variations outside of an agency’s standard operating hours cannot impair the operational efficiency or client service provided by the agency.

(c) The opening and closing hours of field administrative offices shall be determined by each agency head in a manner consistent with its operational needs and in conformance with section 221 of The Administrative Code.

(d) Requests for changes to the schedule shall be forwarded to the Secretary of Administration, with justification, for consideration by the Executive Board.

(e) The schedule of office hours is as follows: 7:30 a.m.—4 p.m. Liquor Control Board; 7:30 a.m.—4:30 p.m. Civil Service Commission, Public School Employees’ Retirement System; 7:30 a.m.—5 p.m. Executive Offices, Revenue; 7:45 a.m.—4:15 p.m. Pa. Municipal Retirement System; 8 a.m.—4 p.m. Agricul-
§ 1.31. Purpose of the State Center of Health Statistics and Research.

In addition to serving as the focal point for coordinating the collection, analysis and dissemination of health data, the State Center for Health Statistics and Research shall:

1. Provide statistical support services to meet the needs of Federal, State and local data users and providers in both public and private sectors.
2. Continue its commitment to reducing duplication of data collection and processing through shared data systems to:
   i. Improve the quality, timeliness and comparability of health statistics.
   ii. Analyze and disseminate information on the health status of Pennsylvanians and utilization of the health care delivery system.
(iii) Provide equal access to data to appropriate data users. Access shall be limited by provisions of guarantees for the confidentiality of individually identifiable data.

(iv) Support the goals and objectives of a National cooperative health statistics system.

§ 1.36. Cooperation by State agencies.

Agencies under the jurisdiction of the Governor shall cooperate and provide information to the State Center for Health Statistics and Research in the performance of its functions.

§ 1.37. Rescissions.

Executive Orders 1986-4 and 1976-2 are rescind.

Subchapter C. INTERPRETATION OF THE SUNSHINE ACT OF 1986 AS APPLIED TO EXECUTIVE AGENCIES

Sec.
1.41. Requirements.
1.42. Agencies.
1.43. Official action.
1.44. Deliberations.
1.45. Executive sessions.
1.46. Personnel matters.
1.47. Labor relations.
1.48. Purchase or lease of property.
1.49. Consultation with professional advisors.
1.50. Privileged, confidential, investigatory and quasi-judicial matters.
1.51. Academic admission or standing.
1.52. Minutes.
1.53. Notice.
1.54. Emergency meetings.
1.55. Rules and regulations.
1.56. Use of recording devices.
1.57. Conferences.
1.58. Administrative action.
1.59. Exemptions.
1.60. Violations.
1.61. Force and effect.

Source

§ 1.41. Requirements.
   (a) General provisions. A meeting of an agency at which official action or deliberations by a quorum of the members of an agency take place shall be open to the public unless exempt from this subchapter or closed for an executive session. The agencies official actions and deliberations which are covered by this subchapter are defined by §§ 1.42, 1.43 and 1.44 (relating to agencies; official
action; and deliberations). Exemptions from this subchapter are set forth in subsection (i), and executive sessions may be closed as provided by § 1.45 (relating to executive sessions).

(b) **Voting.** Votes taken at open meetings shall be publicly cast and, in the case of role call votes, recorded in the minutes of the agency. Agencies may take official action by notational voting as provided by § 1.45(c).

(c) **Minutes.** Written minutes of open meetings prepared as set forth in § 1.52 (relating to minutes) shall be kept and made available as a public record for examination and copying.

(d) **Public notice.** Public notice in the manner provided by § 1.53 (relating to notice) shall be given at least 3 days in advance of an agency’s first regular meeting of each calendar or fiscal year and at least 24 hours in advance of a special meeting or rescheduled meeting.

(e) **Emergency meetings.** Advance public notice is not required in the case of an emergency meeting as provided by § 1.54 (relating to emergency meetings).

(f) **Schedule of regular meetings.** An agency shall give public notice of their schedule of regular meetings for the calendar or fiscal year, either prior to or immediately following the agency’s first regular meeting.

(g) **Rules of order.** An agency may adopt rules and regulations necessary for the conduct of meetings and the preservation of order as provided by § 1.55 (relating to rules and regulations).

(h) **Recording devices.** Subject to rules and regulations adopted by an agency, as provided by § 1.56 (relating to use of recording devices), a person attending an open meeting of the agency has the right to use recording devices to record proceedings of the meeting.

(i) **Exemptions.** An agency is not required to conduct open meetings to hold conferences under § 1.57 (relating to conferences), to take administrative action as provided by § 1.58 (relating to administrative action) or, as set forth in § 1.59 (relating to exemptions), to take official action or conduct deliberations regarding a matter which, if conducted in public, would violate a lawful privilege or lead to the disclosure of information or confidentiality protected by law, including the investigation of violations of law and quasi-judicial deliberations.

(j) **Meeting locations.** An agency shall conduct open meetings at locations reasonably accessible by members of the public and with adequate seating and other facilities to allow effective public observation and, if appropriate, participation in agency deliberations. A meeting site shall be accessible to handicapped individuals and shall either be within a public building or at a location fully open and available to members of the general public. A meeting may not be conducted at a private club or another location not customarily accessible by members of the public.

(k) **Violations.** An agency is not authorized to conduct formal adjudications of complaints regarding alleged violations of this subchapter, but if an agency
determines that it has violated this subchapter, the agency may cure the defective procedure in the manner provided by § 1.60 (relating to violations).

§ 1.42. Agencies.

(a) General provisions. This subchapter applies to an agency of the executive branch of the government of the Commonwealth which:

(1) Is created by or under a statute.

(2) Performs, or has for its purpose the performance of essential governmental functions.

(3) Exercises governmental functions through the joint action of two or more individual members of the agency.

(4) Takes official action.

(b) Advisory agencies. This subchapter applies to an agency of the executive branch which exercises solely advisory functions to the extent the rendering of advice by the agency affects substantive or procedural, personal or property rights, privileges, immunities, duties, liabilities or obligations of the public or a part thereof. The rendering of advice has such effect in situations including, but not limited to, those in which the offering of advice is legally necessary for the exercise of essential governmental functions by another agency or by law forms a part of a legally reviewable record for subsequent adjudicative or regulatory proceedings.

(c) Joint actions. This subchapter applies to a group composed of two or more agency heads or public officials which by law perform essential governmental functions through the joint action of its members. This subchapter does not apply to the group to the extent its members are separately required to review, approve or offer advice, comment or consultation regarding an official action and do not constitute a single legal entity for the purpose of jointly taking the action.

(d) Governor’s Cabinet. This subchapter applies to the Governor’s Cabinet when meeting on official policymaking business. Official policymaking business refers to discussions, deliberations or decisions vested in the cabinet by law or executive order with regard to the formation, endorsement, ratification or approval of a program or general plan for the conduct of governmental functions. Except as otherwise provided by this subchapter, this subchapter applies to meetings of the Human Resources Committee of the Cabinet, the Economic Development Committee of the Cabinet and the Governor’s Task Force on Regulatory Relief. This subchapter does not apply to informal meetings of the cabinet, such as breakfasts, luncheons, dinners and receptions conducted primarily to exchange information regarding the general administration of State government or for predominantly social purposes.

(e) Committees. This subchapter applies to a committee composed from the membership of an agency if the committee has been authorized by the agency to take official action on behalf of the agency or to render advice to the agency on
matters of agency business. Advisory committees are subject to this subchapter
to the same extent and subject to the same limitations as advisory agencies.

(f) **Departments.** Departments and other agencies of the executive branch
headed by a single executive officer and meetings between department heads and
other officers, investigators and employees for the purpose of making determina-
tions or soliciting information are not subject to this subchapter.

(g) **Staff meetings.** This subchapter applies to a committee or group of agency
staff members authorized by law to take official action through the joint action of
its members. This subchapter does not apply to a committee or group of staff
members providing advice or assistance to the agency or authorized by the
agency to take official action.

**Cross References**

This section cited in 4 Pa. Code § 1.41 (relating to requirements).

§ 1.43. **Official action.**

(a) **Covered activities.** Official action by a quorum of the members of an
agency shall be subject to this subchapter if the members of the agency at a
meeting vote or otherwise make a decision regarding one of the following:

(1) The adoption of recommendations made under a law or executive
order.

(2) The establishment of policies of general or widespread prospective
applicability.

(3) The adoption of a motion, proposal, resolution, rule, regulation, report
or order.

(4) The creation of liability by contract or otherwise.

(5) The adjudication of rights, duties or responsibilities.

(b) **Hearings.** This subchapter does not apply to the conduct of investigative
or adjudicative hearings at which neither formal action nor deliberations take
place. The hearings shall be governed by 2 Pa.C.S. (relating to administrative law
and procedure) or other appropriate Commonwealth statutes.

(c) **Notational voting.**

(1) Unless otherwise provided by law, the members of an agency may cast
votes by the use of notational or round-robin voting whereby members vote
individually and separately upon a recommended written motion, proposal,
resolution, rule, regulation, ordinance, report or order prepared by the staff or
an individual member of the agency and circulated for approval to the mem-
bers of the agency.

(2) An agency may utilize notational voting only to expedite decision mak-
ing or to remove uncontested or noncontroversial matters from the agenda of
public meetings in order to facilitate public deliberations of contested or sig-
nificant items. An agency may not utilize notational voting for the purpose of
avoiding the public discussion of significant issues or to conceal the actual casting of votes by members of an agency at an open meeting.

(3) An agency may utilize notational voting for the purpose of adopting a written opinion which explains or documents a decision made by the agency at an open meeting.

(4) Notational votes may not be cast during a recess called during an open meeting.

(5) At the first public meeting following the making of decisions or the adoption of written opinions by notational voting, an announcement shall be made that matters have been considered by notational voting and the substance of official actions taken by notational voting and the record of votes cast by individual members upon the matters shall be entered upon the minutes of the meeting.

Cross References
This section cited in 4 Pa. Code § 1.41 (relating to requirements); and 4 Pa. Code § 1.52 (relating to minutes).

§ 1.44. Deliberations.
(a) Scope. Deliberations by a quorum of the members of an agency shall be subject to this subchapter if the members of the agency discuss agency business for the purpose of making a decision.

(b) Presumption. It shall be presumed that whenever a quorum of an agency meets by prearrangement to discuss agency business that the meeting occurs for the purpose of making a decision unless based upon clear and convincing evidence the meeting does not satisfy the criteria in subsection (b).

(c) Covered discussions. Discussions are held for the purpose of making a decision if the following exist:

(1) The agency is scheduled to take or reasonably anticipates taking official action involving a decision on agency business in the reasonably immediate future.

(2) The agency has formulated recommendations, policies, motions, proposals, resolutions, rules, regulations, reports or orders relating to agency business upon which decisions will be made or with reasonable specificity has indentified courses of agency action upon which the recommendations, policies, motions, proposals, resolutions, rules, regulations, reports or orders will be prepared.

(3) The discussions involve direct or indirect indications of how individual members of the agency will vote upon matters subject to official action by the agency.

(4) The discussions occur at a prearranged gathering of the members of the agency held for the purpose of deliberations upon agency business or the meet-
(d) **Informal meetings.** This subchapter does not apply to informal meetings of a quorum of the members of an agency, such as breakfasts, luncheons, dinners and receptions conducted primarily to exchange information about general agency operations or for predominantly social purposes. Agency members shall avoid discussions at meetings which directly or indirectly indicate how individual members will vote upon matters subject to official action by the agency.

**Cross References**

This section cited in 4 Pa. Code § 1.41 (relating to requirements).

§ 1.45. **Executive sessions.**

(a) **Purpose.** An agency may hold a meeting from which the public is excluded for one or more of the purposes in §§ 1.46—1.51.

(b) **Attendance.** An agency may admit to an executive session persons necessary to carry out the purpose of the meeting. The persons may include, but are not limited to, agency staff, legal and technical advisors and individuals and their representatives who may be affected by matters to be discussed at an executive session. An agency may also meet with auditors and legislative investigatory committees in an executive session.

(c) **Procedure.** An executive session may be held during an open meeting, at the conclusion of an open meeting or may be announced for a future time at an open meeting. If an agency conducts an executive session which was not announced at an open meeting, the agency shall give each of its members at least 24 hours’ notice in advance of the time of the meeting unless all of the members of an agency by unanimous agreement waive the requirement for the notice.

(d) **Notice.** At the open meeting occurring immediately prior or subsequent to an executive session, the agency shall announce and include within its minutes, the date, time, location and purpose of the executive session. The purpose of an executive session may be explained by a general reference to the types or categories of subjects discussed at the session and need not identify with specificity persons or matters considered during the meeting.

(e) **Official action.** Unless otherwise provided by law or exempt under § 1.59 (relating to exemptions), a meeting at which a quorum of the members of an agency take official action with regard to matters discussed at an executive session shall be open to the public.

(f) **Minutes.** The agency shall keep minutes of each executive session in the same manner required by § 1.52 (relating to minutes) for open meetings. The minutes of executive sessions do not constitute records available for public inspection and copying.
§ 1.46. Personnel matters.

(a) Scope. An agency may hold an executive session to discuss a matter related to the employment, appointment, termination of employment, evaluation of performance, promotion or disciplining of a specific prospective, current or former public officer or employe employed by the agency.

(b) Closed hearings. An executive session may include, at the discretion of the agency, a closed hearing attended by the individual subject to the proceedings and the individual’s legal representative. Unless otherwise provided by law, the record of the hearing is not a record available to the public for copying and examination.

(c) Requests for open meetings. Unless otherwise provided by law, the individual whose rights could be adversely affected by discussions at an executive session regarding personnel matters may request, in writing, that the matters be discussed at an open meeting. The request shall include a specific waiver of the rights to confidentiality regarding personnel records, reports and other matters material to the proceedings to the extent the records, reports or other matters are discussed at an open meeting. The agency may grant or deny a request to conduct discussions in an open meeting. The agency shall deny the request to conduct the discussions at an open meeting if the meeting would impair the progress of an investigation by the agency into other or related matters concerning the official duties of the agency or would operate to the improper prejudice or impairment of another person’s personal safety or reputation.

(d) Official actions and suspensions. Unless otherwise provided by law and as required under § 1.45(e) (relating to executive sessions), a meeting by a quorum of the members of the agency at which official action is taken to hire, appoint, terminate, reward, promote or discipline an employe shall be open to the public. The agency may, pending the formal action, temporarily suspend an employe or public official under procedures established by the Office of Administration or the Executive Board.

Cross References
This section cited in 4 Pa. Code § 1.45 (relating to executive sessions).

§ 1.47. Labor relations.

(a) Scope. An agency may conduct an executive session to hold information, strategy and negotiation sessions related to the negotiation or arbitration of a collective bargaining agreement or, in the absence of a collective bargaining unit, related to labor relations and arbitration.
(b) **Attendance.** An executive session to consider labor relations matters session may be attended, at the discretion of the agency, by representatives of employees or their bargaining organizations.

(c) **Official actions.** Unless otherwise provided by law and as required under § 1.45(e) (relating to executive sessions), a meeting by a quorum of the members of the agency to adopt a collective bargaining agreement or other labor contract, award or agreement shall be open to the public. The agency may make decisions regarding strategy and offers made in the court of negotiation at an executive session.

### Notes of Decisions

**Grievance Subject to Arbitration**

The arbitrator correctly relied on the past practice of the district court in granting rescission of sabbatical requests over an 8-year period and in finding the dispute arbitrable. The arbitrator’s decision not only did not conflict with any language of the agreement, but it also met the “essence test” in that the collective bargaining agreement contained no integration clause nor any language eliminating past practices as a consideration. *Centennial School District v. Centennial Education Association*, 26 D.&C. 4th 567 (Pa. Com. Pl. 1994).

### Cross References

This section cited in 4 Pa. Code § 1.45 (relating to executive sessions).

### § 1.48. Purchase or lease of property.

(a) **Scope.** An agency may conduct an executive session to consider the purchase or lease of real property up to the time an option to purchase or lease the real property is obtained or up to the time an agreement to purchase or lease the property is obtained if the agreement is obtained directly without an option. Agencies should utilize executive sessions to consider the acquisition or lease of real property only in circumstances in which the public disclosure of the considerations is likely to lead to speculation, collusion among sellers or other events likely to increase the cost to the Commonwealth of acquiring or leasing real property.

(b) **Attendance.** An executive session to consider the purchase or lease of real property may be attended, at the discretion of the agency, by a seller or lessor of the property or his representative or agent.

(c) **Official actions.** A meeting at which an option or agreement to buy or lease real property is executed by a quorum of the members of the agency shall be open to the public. An agency may at an executive session give preliminary acceptance to an offer of an option or agreement to buy or lease real property subject to the ratification of the contract at an open meeting.

### Cross References

This section cited in 4 Pa. Code § 1.45 (relating to executive sessions).

### § 1.49. Consultation with professional advisors.

(a) **Scope.** An agency may hold an executive session to consult with its attorney or other professional advisor in connection with litigation or with issues upon which identifiable complaints are expected to be filed. Other professional advi-
sors include, but are not limited to, accountants, actuaries, architects, engineers, health care professionals, investment advisors and scientific experts. Consultations may occur in an executive session whenever complaints or actions affecting the interests of the agency have been filed before a court or an administrative agency or can be expected to be filed in the reasonably foreseeable future.

(b) **Official action.** A meeting at which a quorum of the members of an agency authorize agency counsel to initiate or intervene in an action, defend the agency or otherwise formally participate in legal proceedings shall be open to the public. An agency decision regarding specific instructions to counsel regarding the content of pleadings, motions, memoranda of law or other matters relating to the progress of litigation or administrative proceedings may take place at an executive session.

**Cross References**

This section cited in 4 Pa. Code § 1.45 (relating to executive sessions); and 4 Pa. Code § 1.60 (relating to violations).

**§ 1.50. Privileged, confidential, investigatory and quasijudicial matters.**

(a) **Privileged matters.** An agency may conduct an executive session to review and discuss agency business which, if conducted in public would violate a lawful privilege including, but not limited to, confidential communications with attorneys, executive officers of State government, physicians, clergymen, licensed psychologists, school personnel and sexual assault counselors.

(b) **Confidential matters.** An agency may conduct an executive session to review and discuss agency business which if conducted in public would lead to the disclosure of information or confidentiality protected by statute including, but not limited to, matters relating to:

1. Business or personal finances.
2. A report, return, assessment or determination relating to the payment of taxes.
4. The physical and emotional health of individuals.
5. Information which would operate to the prejudice or impairment of a person’s personal reputation or personal security.
6. Information the disclosure of which could result in the loss of Federal funds by the Commonwealth or its political subdivisions.
7. Benefits received by indigent or needy individuals.
8. The review of contractor qualifications, bids or proposals.
9. Criminal history information and investigative files not available for public examination and copying.
10. Other information the confidentiality of which is protected by statute.

(c) **Investigations.** An agency may conduct an executive session to review and discuss matters which, if discussed in public, would disclose the institution, progress or result of an investigation undertaken by an agency in the performance of its official duties and impair the progress of the investigation or the initiation of civil or criminal proceedings to enforce the statutes of the Commonwealth.
(d) **Quasi-judicial deliberations.** Unless otherwise provided by statute, an agency conducting a formal adjudication under 2 Pa.C.S. (relating to administrative law and procedure) or similar statutes may, to the extent the adjudicative proceedings are not exempt from the requirements of this subchapter by § 1.59 (relating to exemptions), deliberate within executive sessions except insofar as agency deliberations involve general rules or other orders in the nature of regulations. Deliberations involving general rules or other orders in the nature of regulations may be discussed in an executive session only insofar as the discussions, if conducted in public, would violate a lawful privilege or lead to the disclosure of confidential information as provided by subsections (a), (b) and (c).

(e) **Open meetings.** An agency may conduct at its discretion open meetings to discuss privileged or confidential matters if all parties entitled to assert the privileges or rights to confidentiality expressly authorize, in whole or in part, the matters to be discussed at an open meeting.

(f) **Official action.** A meeting of a quorum of the members of an agency to take official action with regard to matters discussed at executive sessions under this section shall be open to the public unless exempt from the requirements of this chapter by § 1.59.

Cross References

This section cited in 4 Pa. Code § 1.45 (relating to executive sessions); and 4 Pa. Code § 1.59 (relating to exemptions).

§ 1.51. Academic admission or standing.

The constituted committees of a board or council of trustees of a State-owned, State-aided or State-related college or university or community college or the Board of Governors to the State System of Higher Education may hold executive sessions to discuss matters of academic admission or standing.

Cross References

This section cited in 4 Pa. Code § 1.45 (relating to executive sessions).

§ 1.52. Minutes.

(a) **Content.** Written minutes of open meetings shall contain the following information:

1. The date, time and place of the meeting.
2. The names of members present.
3. The substance of official actions and a record by individual members of the roll call votes taken.
4. The names of citizens who appeared officially and the subject of their testimony.
5. Evidence of compliance with the notice requirements of § 1.53 (relating to notice) or § 1.54(b) (relating to emergency meetings).
(6) The justification for an emergency meeting as required by § 1.54(a).
(7) A record of an executive session conducted or planned as required by § 1.45(d) (relating to executive sessions).
(8) Whether an official transcript or recording has been prepared or whether the use of recording devices by other persons has been registered under § 1.55(c) (relating to rules and regulations).
(9) A record of notational voting conducted by the agency under § 1.43(c)(4) (relating to official action).
(10) Other information required by law, this subchapter or which the agency determines is appropriate to include in the record of agency proceedings.

(b) Official testimony. The agency is required to include within its minutes the names and the subject of testimony of persons who indicate to the agency they wish to provide official testimony. The agency is not required to include within its minutes a listing of persons attending an open meeting or persons offering informal comments to the agency. If persons offer written official testimony to the agency, the statements shall be included together with the minutes as a public record of the agency.

(c) Public records. Minutes of agency proceedings, testimony attached to the minutes and official recordings or transcripts of agency proceedings at an open meeting shall be records available to the public for examination and copying.

Cross References
This section cited in 4 Pa. Code § 1.41 (relating to requirements); 4 Pa. Code § 1.45 (relating to executive sessions); and 4 Pa. Code § 1.55 (relating to rules and regulations).

§ 1.53. Notice.
(a) Publication. In accordance with procedures established by the Department of General Services, an agency shall publish notice of the place, date, time and purpose of an open meeting in a newspaper of general circulation, as defined by 45 Pa.C.S. § 101 (relating to definitions), which is published and circulated in the political subdivision where the meeting will be held or in a newspaper of general circulation which has a bona fide paid circulation in the political subdivision equal to or greater than a newspaper published in the political subdivision.

(b) Posting. The agency shall post a notice of the place, date, time and purpose of a meeting prominently at the principal office of the agency holding the meeting or at the public building in which the meeting is to be held.

(c) Direct notice. The agency shall supply a copy of the notice of an open meeting directly to individuals with a direct and substantial interest in the proceedings of the agency and, upon request, to other interested parties, including, but not limited to, members of the public, newspapers of general circulation, radio and television stations. A party requesting direct notice of meetings shall
register with the agency, but the agency may not require the provision of stamped, self-addressed envelopes as provided by section 9(c) of the Sunset Act (65 P. S. § 279(c)).

(d) **Capitol newsroom and General Assembly.** An executive agency shall also provide copies of meeting notices to the supervisor of the newsroom in the State Capitol Building in the manner provided by section 9(d)(1) of the Sunshine Act, to the Office of the Secretary of the Senate and the Chief Clerk of the House of Representatives and to the Chairperson and Minority Chairpersons of standing committees of the Senate and the House of Representatives designated as responsible for oversight of agency activities under the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

(e) **Agency contact.** A notice provided under this section shall include the name, address, title and phone number of a responsible agency official who will be available to answer questions about a scheduled public meeting.

(f) **Use of recording devices.** If an agency, under § 1.56(b) (relating to use of recording devices), requires advance notification of the intent of persons to utilize recording devices at an open meeting in order to provide adequate facilities and arrangements to facilitate the use of the devices, the information shall be included within notices provided under this section, together with instructions that the individuals shall notify the agency contact as provided by subsection (e) about their plans and requirements.

(g) **Relocation of meetings.** If, due to overcrowding, the malfunction of utilities or the unavailability of an originally scheduled meeting room it becomes necessary to relocate a meeting, new and separate notice under this section is not required if the new meeting site is within the same building or within reasonable proximity of the originally scheduled meeting site and, if the following exist:

1. Notice is prominently posted at the original site announcing the relocation of the meeting.

2. The start of the meeting is delayed a sufficient period of time in order to allow individuals arriving at the original meeting site to move to the new meeting site.

3. If possible and appropriate, direct notice of the change in location is given to the Capitol Newsroom, persons offering official testimony at the meeting, persons registering the use of recording devices under § 1.56(b)(1) and persons with a direct and substantial interest in agency proceedings to be conducted at the meeting.

**Cross References**

This section cited in 4 Pa. Code § 1.41 (relating to requirements); 4 Pa. Code § 1.52 (relating to minutes); and 4 Pa. Code § 1.54 (relating to emergency meetings).
§ 1.54. Emergency meetings.
(a) Purpose. An agency may conduct a meeting to deal with a real or potential emergency involving a clear and present danger to life or property without compliance with the notice requirements of § 1.53 (relating to notice). At an emergency meeting, the agency shall explain with specificity the justification for conducting an emergency meeting and include the justification within the minutes of the agency proceeding.

(b) Notice. Prior to conducting an emergency meeting, the agency shall take whatever actions are practical and appropriate to provide actual advance notice regarding the meeting, especially to individuals or organizations with a direct and substantial interest in official action scheduled to be taken at the meeting. The notification may include press releases, personal notification of affected parties, the provision of notices to the supervisor of the newsroom in the State Capitol Building and the posting of notices at the site of the emergency meeting.

Cross References
This section cited in 4 Pa. Code § 1.41 (relating to requirements); and 4 Pa. Code § 1.52 (relating to minutes).

§ 1.55. Rules and regulations.
(a) Conduct of open meetings. An agency may adopt, by official action taken at a public meeting, rules and regulations or bylaws necessary for the conduct of its meetings and the maintenance of order. The regulations may include procedures for:

(1) Public participation in meetings including the presentation of official testimony under § 1.52(b) (relating to minutes), as well as the presentation of unofficial comments by members of the public.

(2) The manner in which topics may be placed upon an agency agenda for deliberations and official action.

(3) Limiting debate and discussion of agency business.

(4) Delegating responsibility to committees of the agency and to individual agency officials.

(b) Public participation. Although agencies are encouraged to develop regulations or bylaws designed to maximize effective public participation in open meetings and to provide information to the public about agency proceedings, unless otherwise required by law, agencies are not required to recognize or take testimony from members of the public at open meetings or to share with members of the public copies of internal agency records distributed to agency members.

(c) Regulatory deliberations. For the purpose of effectively conducting proceedings regarding the content of regulations under review under the Regulatory Review Act (71 P. S. §§ 745.1—745.15) or the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506), the agency may at an open meeting designate
one or more official representatives to execute regulatory documents implementing general instructions provided by the agency and to meet with representatives of other agencies, the General Assembly, the Independent Regulatory Review Commission and the public to discuss and make changes to proposed regulations and enter into tentative agreements regarding changes to final rules. Agreements regarding changes to final regulations shall be subject to review and approval by the agency prior to final adoption of regulations, but the commitment of an agency representative may be offered for the purpose of obtaining approval of documents under the Regulatory Review Act. A meeting at which a quorum of the members of an agency meet to adopt a final regulation shall be open to the public.

Cross References
This section cited in 4 Pa. Code § 1.41 (relating to requirements); and 4 Pa. Code § 1.52 (relating to minutes).

§ 1.56. Use of recording devices.

(a) Permissible activities. A person attending an open meeting of an agency shall have the right to take written or stenographic notes of agency proceedings or utilize audio or video recording devices to record proceedings at an open meeting.

(b) Rules and regulations. An agency may adopt rules and regulations governing the use of recording devices. The regulations may:

(1) Require prior registration with the agency by individuals wishing to utilize recording devices who require special accommodations within the meeting room in order to provide adequate facilities and arrangements to facilitate the use of the devices. The regulations may not prohibit the use of recording devices without prior registration.

(2) Limit the use of recording devices to certain areas within a meeting room in order to avoid blocking the public view of agency proceedings or the creation of a distraction or interference with agency proceedings and prohibit the unreasonable use of noisy or distracting recording devices if the use of the devices interferes with the effective conduct of an open meeting. The regulations may not deprive members of the public of reasonable access necessary to record agency proceedings.

(c) Minutes. If an agency does not prepare an official recording or transcript of its proceedings, it shall include within the minutes of its proceedings, with the consent of the persons utilizing recording devices, the name and address of parties registering the use of recording devices at an open meeting and what portions of the meeting were recorded by the persons.

Cross References
This section cited in 4 Pa. Code § 1.41 (relating to requirements); and 4 Pa. Code § 1.53 (relating to notice).
§ 1.57. Conferences.

(a) **Scope.** The quorum of the members of an agency may participate in a training program or seminar which is organized and conducted for the sole purpose of providing information to agency members on matters directly related to their official responsibilities without compliance with this subchapter. A conference may be organized by the agency, its staff or other persons, groups or organizations and may be attended either solely by members and staff of the agency or may include other persons, groups or organizations.

(b) **Prohibited activities.** A conference attended by a quorum of the members of an agency is subject to this subchapter if the conference includes a significant or substantial amount of deliberation among members of the agency. A conference is not subject to this subchapter if the purpose and predominant activity for which the meeting is held is to provide information to members of the agency needed in order to conduct future deliberations or take future formal actions. Incidental discussions regarding agency business may permissibly occur at conferences not subject to this subchapter, but agency members shall avoid discussions at conferences which directly or indirectly indicate how members will vote upon matters subject to official action by an agency.

(c) **Attendance by less than a quorum.** This subchapter does not apply to the participation in training programs or seminars by less than a quorum of the members of an agency.

**Cross References**

This section cited in 4 Pa. Code § 1.41 (relating to requirements).

§ 1.58. Administrative action.

(a) **Scope.** Official action and deliberations by a quorum of the members of an agency are not subject to this chapter if the official action and deliberations predominantly and primarily involve administrative action. Administrative action is the execution of policies relating to persons and things previously authorized or required by official action of the agency adopted at an open meeting of the agency. Administrative action includes, but is not limited to:

1. Matters related to internal agency operations.
2. The issuance of permits or licenses based upon nondiscretionary criteria.
3. Matters related to intergovernmental coordination and cooperation within the executive branch.

(b) **Limitations.** An agency is not engaged in administrative action if the execution of previously authorized policies meets one of the following:

1. Requires new and significant decisions on important policymaking matters, including the adoption of statements of policy, guidelines and interpretations of law or regulations.
(2) Involves decisions relating to new and significant factual applications of current policies which establish precedents for future agency action.

(3) Relates to the formal adoption of contracts or agreements creating rights, duties or obligation of the Commonwealth and other parties.

Cross References
This section cited in 4 Pa. Code § 1.41 (relating to requirements).

§ 1.59. Exemptions.

(a) Scope. This subchapter does not apply to meetings of the quorum of the members of an agency to conduct deliberations or official actions regarding matters for which the taking of official action at an open meeting will violate a lawful privilege as defined by § 1.50(a) (relating to privileged, confidential, investigatory and quasi-judicial matters) or lead to the disclosure of information or confidentiality protected by law (as defined by § 1.50(b)), including matters related to the investigation of possible or certain violations of statute (under § 1.50(c)) and quasi-judicial deliberations (under § 1.50(d)). If an agency may take official action at an open meeting without violating a lawful privilege or disclosing confidential information, official actions and deliberations with regard to the matters are subject to the requirements of this subchapter, but deliberations regarding such matters may occur at an executive session under § 1.50.

(b) Quasi-judicial deliberations. Unless otherwise provided by statute, official actions with respect to formal adjudications conducted under 2 Pa.C.S. (relating to administrative law and procedure) or similar statutes are exempt from this subchapter unless the adjudications involve general rules or other orders in the nature of regulations.

(c) Budget preparation meetings. Meetings of quorum of the members of an agency to conduct official actions and deliberations with regard to budget recommendations to be submitted to the Secretary of the Budget are not subject to this subchapter unless the Governor waives the privilege to confidentiality with regard to recommendations received from the agency.

Cross References
This section cited in 4 Pa. Code § 1.41 (relating to requirements); 4 Pa. Code § 1.45 (relating to executive sessions); and 4 Pa. Code § 1.50 (relating to privileged, confidential, investigatory and quasi-judicial matters).

§ 1.60. Violations.

(a) Formal adjudications. An agency may not conduct a formal adjudication regarding the question of whether meetings have been conducted in compliance with this subchapter. Original jurisdiction to determine whether the actions of an agency has complied with this subchapter is vested in Commonwealth Court under section 15 of the Sunshine Act (65 P. S. § 285).
(b) **Complaints.** Upon receipt of a complaint that the actions of an agency allegedly violated this subchapter, the agency shall refer the matter to its chief counsel to render an advisory opinion. The Chief Counsel shall investigate whether or not the agency has complied with this subchapter and provide advice in the form of a confidential attorney-client communication to the agency. The agency may review the advice received from its counsel in an executive session conducted under § 1.49 (relating to consultation with professional advisors).

(c) **Corrective action.** If, following the review of the advice of counsel in an executive session, the agency determines that it may have violated this subchapter, the agency shall announce the finding at an open meeting and develop and implement a plan of corrective action. Implementation of a plan of corrective action which provides for required public deliberations and official actions may be deemed by the agency to ratify good faith actions allegedly taken in violation of this subchapter. The ratification of prior agency action may validate the action effective upon the date of completion of remedial action and may at the discretion of the agency apply retroactively to the date of original agency action. If an agency deems a ratification of previously defective actions to apply retroactively, the action may not impair vested rights or obligations until the date upon which corrective action is complete.

(d) **Deemed approval.** Except under the order of a court of competent jurisdiction, whenever under a statute or regulation the failure of an agency to take official action constitutes approval of a request for agency action, the failure of an agency to comply with this subchapter in disapproving the request does not constitute an approval of the request.

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**Cross References**

This section cited in 4 Pa. Code § 1.41 (relating to requirements).

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**§ 1.61. Force and effect.**

This subchapter constitutes legal advice rendered to executive agencies of the Commonwealth under the jurisdiction of the Governor under section 301(3) of the Commonwealth Attorneys Act (71 P. S. § 732-301(3)). This legal advice is codified in this subchapter as a statement of policy which is permanent and general in nature containing an interpretation of a statute issued without reliance upon express or implied rulemaking authority as provided by 1 Pa. Code §§ 1.4 and 3.26a (relating to definitions; and statements of policy). As a statement of policy, this subchapter is directory, rather than mandatory, and is not intended to have the force and effect of law. This subchapter is intended to provide advice and guidance to agencies under the jurisdiction of the Governor regarding the execution of statutory duties and responsibilities.
Subchapter D. PUBLIC INFORMATION
POLICIES AND PRACTICES

Sec.
1.71. Policy.
1.72. Agency public information activities.
1.73. Coordination with the Governor’s Office.

Source

§ 1.71. Policy.
It is the policy of the government of the Commonwealth to build effective communication between itself and the citizens of this Commonwealth and, as far as is humanly and legally possible, to provide citizen access to the facts about State government. All Commonwealth public information activities shall function in a manner consistent with such policy.

§ 1.72. Agency public information activities.
(a) Each agency of State government shall maintain an office of public information, unless authorized to eliminate this function by the Director of Public Information for the Governor’s Office.
(b) The director of public information in each agency should have direct, daily access to the head of the agency and should report directly to him.
(c) The director of public information in each agency should be a member of any communications advisory committee appointed by the agency head, and should be involved in the discussion of all policy.
(d) All personnel of each agency should be informed in writing of the commitment of the Commonwealth to freedom of information. Public records and information, except those which are deemed confidential or privileged as a matter of law, should be made available to representatives of the public and the news media.
(e) Procedures for furnishing information to the news media and the public should be detailed for the guidance of all personnel in each agency.

§ 1.73. Coordination with the Governor’s Office.
(a) The Director of Public Information for the Governor’s Office shall administer the public information activities of departments, boards, commissions, and other State agencies under the jurisdiction of the Governor.
(b) The Director of Public Information for the Governor’s Office shall be consulted regarding all public information personnel.
(c) The Director of Public Information for the Governor’s Office, in order to expedite the two-way flow of information between the government of the Commonwealth and the people, will work as closely as possible with the heads of all agencies and their public information offices.
(d) The Director of Public Information for the Governor’s Office shall be consulted on publications planned by agencies under the Governor’s jurisdiction and shall review at regular intervals all publications distributed by the agencies to determine the value of retaining them.

Subchapter E. [Reserved]

Sec.
1.81. [Reserved].
1.82. [Reserved].
1.83. [Reserved].
1.84. [Reserved].

Source
The provisions of this Subchapter E adopted by Executive Order No. 1974-4, dated April 8, 1974, 4 Pa.B. 796, unless otherwise noted.

§ 1.81. [Reserved].

Source

§ 1.82. [Reserved].

Source

§ 1.83. [Reserved].

Source

§ 1.84. [Reserved].

Source

Subchapter F. [Reserved]

Source
The provisions of this Subchapter F adopted October 22, 1976, 6 Pa.B. 2640; reserved by Executive Order No. 1986-8, dated December 12, 1986, 17 Pa.B. 165. Immediately preceding text appears at serial pages (113747) to (113748).

§ 1.91. [Reserved].

§ 1.92. [Reserved].

Subchapter G. [Reserved]

Source
The provisions of this Subchapter G adopted October 22, 1976, 6 Pa.B. 2640; reserved by Executive Order No. 1986-6, dated October 24, 1986, effective November 8, 1986, 16 Pa.B. 4380. Immediately preceding text appears at serial pages (61772) and (50670).

§§ 1.101—1.103. [Reserved].
§ 1.121. [Reserved].

§ 1.122. [Reserved].

Subchapter J. [Reserved]

Source

§ 1.131. [Reserved].

§ 1.132. [Reserved].

Subchapter K. RECORDS MANAGEMENT

Sec.
1.141. Responsibilities.
1.142. Implementation of program.
1.143. Compliance.
1.144. Effective date.
1.145. Rescission.

Source

§ 1.141. Responsibilities.

The Secretary of Administration will administer the records management program for the Commonwealth. The Secretary will determine policies, consistent with section 2813-C of The Administrative Code of 1929 (71 P.S. § 71-720.13), develop standards and establish procedures to control the maintenance, transfer, microfilming, preservation, retention and disposition of records and the acquisition of filing equipment.

§ 1.142. Implementation of program.

The Historical and Museum Commission, in conjunction with the Secretary of Administration, is responsible for implementing the records management program. The Secretary of Administration will issue the Management Directives regarding the Commonwealth’s records management program.
§ 1.143. Compliance.
The head of every department and agency shall establish and maintain an active, continuing program to manage their agency’s records in accordance with this subchapter and implementing instructions issued through the Directives Management System.

§ 1.144. Effective date.
This subchapter is effective January 3, 1992.

§ 1.145. Rescission.
Executive Order 1983-7 is rescinded.

Subchapter L. ENVIRONMENTAL PROTECTION BY STATE AGENCIES

Sec.
1.151. Policy.
1.152. Responsibilities.

Source
The provisions of this Subchapter L adopted October 22, 1976, 6 Pa.B. 2640, unless otherwise noted.

§ 1.151. Policy.
In furtherance of the purposes and policies of the act of June 22, 1937 (P. L. 1987, No. 394) (35 P.S. §§ 691.1—691.701), the Air Pollution Control Act (35 P.S. §§ 4001—4015), the Pennsylvania Solid Waste Management Act (35 P.S. §§ 6001—6017) (Repealed), and the act of June 25, 1913 (P.L. 555, No. 335) (32 P.S. §§ 681—691) (Repealed), the following steps shall be taken:

(1) The heads of administrative departments, independent administrative boards and commissions and other Commonwealth agencies under the jurisdiction of the Governor shall ensure that the government facilities and activities of the Commonwealth comply with the laws listed in this section and the regulations promulgated thereunder.

(2) Environmental pollution control needs shall be considered in the initial stages of planning of each new installation. In addition, any construction, reconstruction or additions to existing facilities, buildings and equipment shall be planned and budgeted so that they comply with environmental laws and regulations.

(3) In the performance of contracts awarded by Commonwealth agencies, contractors shall minimize pollution and shall strictly comply with applicable environmental laws and regulations. Contracts shall contain provisions requiring contractors to comply with applicable environmental laws and regulations.

§ 1.152. Responsibilities.
The Secretary of Environmental Protection will provide technical advice and assistance to other agencies in connection with their duties and responsibilities under this subchapter.

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Subchapter M. EQUAL EMPLOYMENT OPPORTUNITY

Sec.
1.161. [Reserved].
1.162. [Reserved].
1.163. [Reserved].
1.164. [Reserved].
1.165. [Reserved].
1.166. [Reserved].
1.167. [Reserved].
1.168. [Reserved].

Source

§ 1.161. [Reserved].

Source
The provisions of this § 1.161 reserved by Executive Order No. 2016-04, dated April 7, 2016, 46 Pa.B. 2029. Immediately preceding text appears at serial pages (297893) to (297894).

§ 1.162. [Reserved].

Source
The provisions of this § 1.162 reserved by Executive Order No. 2016-04, dated April 7, 2016, 46 Pa.B. 2029. Immediately preceding text appears at serial pages (297894) to (297895).

§ 1.163. [Reserved].

Source

§ 1.164. [Reserved].

Source

§ 1.165. [Reserved].

Source
The provisions of this § 1.165 reserved by Executive Order No. 2016-04, dated April 7, 2016, 46 Pa.B. 2029. Immediately preceding text appears at serial page (297896).
§ 1.166. [Reserved].
§ 1.167. [Reserved].
§ 1.168. [Reserved].

Source
The provisions of this § 1.168 reserved by Executive Order No. 2016-04, dated April 7, 2016, 46 Pa.B. 2029. Immediately preceding text appears at serial page (297896).

Subchapter N. [Reserved]

Source
The provisions of this Subchapter N adopted October 22, 1976, 6 Pa.B. 2640; reserved by Executive Order No. 1986-8, dated December 12, 1986, 17 Pa.B. 165. Immediately preceding text appears at serial pages (87908) and (41392).

§§ 1.171—1.173. [Reserved].

Subchapter O. [Reserved]

Source
The provisions of this Subchapter O adopted by Executive Order No. 1977-4, dated August 3, 1977, 7 Pa.B. 2483; reserved by Executive Order No. 2016-08, dated December 5, 2016, 46 Pa.B. 7993, unless otherwise noted. Immediately preceding text appears at serial pages (380661) to (380663).

§ 1.181. [Reserved].
§ 1.182. [Reserved].
§ 1.183. [Reserved].

Source

Subchapter P. FIREMEN AND LAW ENFORCEMENT OFFICERS’ DEATH BENEFITS

Sec. 1.191. Implementation.

Source

§ 1.191. Implementation.

(a) The provisions of the act of June 24, 1976 (P.L. 424, No. 101) (53 P.S. §§ 891—892) provide for the payment of death benefits to the surviving spouse or children of firemen or law enforcement officers killed in the performance of their duties.

(b) The act imposed the duties and responsibilities upon the Commonwealth to make certain payments out of the General Fund of the Commonwealth without specifically designating which agency should perform the duties and responsibilities.

(c) These duties and responsibilities fall upon the Executive Branch generally.
(d) The agency of the Executive Branch which is best equipped to handle the prescribed duties and responsibilities and which carries out analogous duties and responsibilities, through its Bureau of Risk and Insurance Management, is the Department of General Services.

(e) The Governor has established and designated the Department of General Services as the agency to carry out the responsibilities under the act in conjunction with the State Treasurer.

Subchapter Q. PENNSYLVANIA HUMAN RESOURCES INVESTMENT COUNCIL

Sec.
1.201—1.208. [Reserved].
1.209. Purpose.
1.211. Chairperson and Vice-Chairperson.
1.212. Administration and staff.
1.213. Cooperation of agencies.
1.214. Designation as the Commonwealth’s Human Resources Investment Council (HRIC).
1.215. Quorum.
1.216. Meetings.
1.217. Subcommittees.
1.218. Compensation.
1.219. Rescission.

Source
The provisions of this Subchapter Q adopted by Executive Order No. 1979-8, dated July 19, 1979, effective July 1, 1979, 9 Pa.B. 2511; amended by Executive Order No. 1983-4, dated March 21, 1983; amended by Executive Order No. 1997-7, dated December 19, 1997, 28 Pa.B. 466, unless otherwise noted. Immediately preceding text appears at serial pages (225497) and (200897) to (200898).

§§ 1.201—1.208. [Reserved].

§ 1.209. Purpose.
The purpose of the Pennsylvania Human Resources Investment Council (Council) is to:

(1) Assess the economic and workforce needs of this Commonwealth, and develop a strategic plan to meet these Statewide needs.

(2) Continuously maintain a competitive advantage for this Commonwealth by developing, adopting and assuring the implementation of Statewide policies and goals for workforce development, including:
(i) Setting performance measurements and standards.
(ii) Defining financial resource investment priorities and strategies.
(iii) Developing return on investment criteria to measure the effectiveness of workforce development programs and activities.

(3) Coordinate with other Team Pennsylvania activities to develop a workforce development system that is market-driven and responsive to the needs of this Commonwealth’s employers by supporting the primary goals of Team Pennsylvania which are to:

(i) Promote this Commonwealth to specific companies considering expansion and relocation.
(ii) Assist with business retention efforts.
(iii) Ensure that the Commonwealth’s economic development strategies continue to be focused and effective.
(iv) Improve communication and collaboration among professionals serving this Commonwealth’s businesses.

(4) Establish a rapid response mechanism to mobilize training resources to address the skill requirements for business retention or attraction opportunities created by major job projects of the Governor’s Action Team or local economic developers.

(5) Collaborate and coordinate with State agencies and State boards and commissions that shape economic development and education policies of the Commonwealth, including, the Ben Franklin/IRC Partnership Board, the State Board of Education, the State Literacy Council, the Pennsylvania Apprenticeship and Training Council, the State Board of Vocational Rehabilitation, the State System of Higher Education, the State-related universities and the Pennsylvania Higher Education Assistance Agency, to develop Statewide policies that connect workforce development with lifelong learning and economic competitiveness.

(6) Collaborate with the Department of Community and Economic Development to ensure that the Statewide financing strategy for economic development reported to the General Assembly supports, and is supported by, the goals and objectives of the Commonwealth’s workforce development system.

(7) Collaborate with the Department of Public Welfare to ensure that the Statewide welfare-to-work strategy established to meet the demands of the Personal Responsibility and Work Opportunity Act of 1996, the act of August 22, 1996 (Pub.L. No. 104-93, 110 Stat. 2105), supports, and is supported by, the goals and objectives of the Commonwealth’s workforce development system.

(8) Review the provision of services and the use of funds and resources under applicable State and Federal human resource programs, and coordinate the provision of services and the use of funds and resources among State agencies consistent with the laws and regulations governing the programs. For purposes of this subchapter, applicable State and Federal human resource programs mean the following:
(xi) Section 202(a) of the Community Service Block Grant Amendments of 1994 (42 U.S.C.A. § 9901).
(xiv) The Adult Literacy Act (24 P.S. §§ 6401—6409).
(xvi) The Workers’ Compensation Act (77 P.S. §§ 1—1041.4).
(xvii) The Unemployment Compensation Law (43 P.S. §§ 751—914).
(9) Evaluate State and local plans and proposals submitted for the Federal and State acts in paragraph (8), and approve the investment of public dollars in plans and proposals which are consistent with the laws and regulations governing those acts and with the policies and priorities established by the Council.
(10) Develop strategies to assist local agents in providing support services including, child care and transportation to better meet the needs of system customers.
(11) Develop and advance strategies for local agents to work collaboratively to create regional networks, and to develop coordinated business plans and budgets within regional areas.
(12) Coordinate the following components of the Commonwealth’s workforce development system:
(i) The development and dissemination of appropriate and necessary research and statistical information with the requisite protocols and standards for common data reference.
(ii) The identification and continuous study of workforce development system needs.

(iii) The development of common definitions and common and specific performance standards and measures for workforce development programs and activities.

(iv) The creation of consistent monitoring instruments for the programs and activities included in the system.

(v) The establishment and maintenance of a universally accessible information access system which enables the workforce development system to function and to serve its customers effectively.

(vi) The provision of technical assistance to assist local agencies in meeting any changes associated with a new workforce development system.

(vii) The implementation of mechanisms including, but not limited to, the collaborative process outlined in Federal law, to secure appropriate input from system customers and service providers in the development of policies, performance standards or investment strategies.

(13) Set standards for local career development marketplaces and workforce development system service provider participation, adopt an official workforce development system logo designation and develop a system-wide marketing program.

(14) Examine Federal and State laws and regulations to assess whether they present barriers to achieving the provisions of this subchapter and recommend to the Governor and to the Federal government changes or waivers in Federal or State statutes or regulations to eliminate barriers and promote the provisions of this subchapter.

(15) Report to the Governor, the General Assembly and the Commonwealth generally the Council’s progress and the return on investment and the overall effectiveness of the State and Federal human resource programs defined in paragraph (7).

Cross References
This section cited in 4 Pa. Code § 1.213 (relating to cooperation of agencies).

The Pennsylvania Human Resources Investment Council (Council) has been established in accordance with the composition requirements for State human resource investment councils found in Title VII of the Job Training Partnership Act (29 U.S.C.A. §§ 1792—1792b) or a Federally permissible alternative. In addition, the following individuals serve on the Council:

(1) The Secretary of Aging.
(2) The Secretary of Community and Economic Development.
(3) The Secretary of Education.
(4) The Secretary of Labor and Industry.
(5) The Secretary of Public Welfare.
(6) The Director of the Governor’s Policy Office.
(7) A private sector employer representative from each of the Team Pennsylvania regions.

§ 1.211. **Chairperson and Vice-Chairperson.**
The Governor will designate, to serve at his pleasure, one private-sector employer to serve as Chairperson and one government representative to serve as Vice-Chairperson of the Pennsylvania Human Resources Investment Council.

§ 1.212. **Administration and staff.**
(a) A management committee will be established comprised of Commonwealth government representatives of the Pennsylvania Human Resources Investment Council (Council) which is authorized to make determinations relating to the management and administration of workforce development programs.

(b) The management committee will develop an organizational framework for the conduct of the Council’s work and for meeting the Council’s staffing and support needs. The organizational framework may utilize existing staff structures or may constitute a new staffing arrangement.

(c) All executive State agencies are instructed to give to the Council any necessary assistance required by the Council in the performance of the duties of the Council so far as is compatible with the authority and ability of each State agency.

(d) The policy and program offices of the Departments of Aging, Community and Economic Development, Education, Labor and Industry, and Public Welfare shall provide personnel, equipment and resources, as may be required, for the functioning of the Council.

§ 1.213. **Cooperation of agencies.**
(a) The Pennsylvania Human Resources Investment Council (Council) will develop and adopt applied operating principles to govern the relationships between and among executive State agencies and other governmental and private sector organizations which are participants in the system.

(b) All executive State agencies are instructed to implement the decisions made by the Council regarding the State and Federal human resource programs in § 1.209(8) (relating to purpose) and other decisions directly related to the development, implementation and operation of the Commonwealth’s workforce development system.

§ 1.214. **Designation as the Commonwealth’s Human Resources Investment Council (HRIC).**
(a) The Pennsylvania Human Resources Investment Council (Council) is designated as the HRIC in accordance with Title VII of the Job Training Partnership Act (29 U.S.C.A. §§ 1792—1792b) and, as such, assumes the powers and responsibilities previously held by the State Job Training Coordinating Council.
(b) The Council may be known as or marketed by a name other than the “Pennsylvania Human Resources Investments Council” as determined by the Council or the Team Pennsylvania Board.

§ 1.215. Quorum.
A majority of the members constitutes a quorum of the Pennsylvania Human Resources Investment Council (Council) for the purpose of organizing and conducting the business thereof, and all action shall be taken by a vote of a majority of the members present.

§ 1.216. Meetings.
The Pennsylvania Human Resources Investment Council shall meet at times and places as determined to be necessary.

§ 1.217. Subcommittees.
The Pennsylvania Human Resources Investment Council has authority to establish and to appoint members and delegate duties to subcommittees, as it deems necessary, to fulfill its responsibilities. The subcommittees will be chaired by a member of the Council.

§ 1.218. Compensation.
Members of the Pennsylvania Human Resources Investment Council receive no compensation, but are entitled to receive an allowance for expenses incurred in the performance of duties.

§ 1.219. Rescission.
Executive Order 1983-4, Coordination of State Employment and Training Programs, is rescinded effective June 30, 1998.

Subchapter R. [Reserved]

Source
The provisions of this Subchapter R adopted by Executive Order No. 1979-17, dated December 14, 1979, effective January 5, 1980, 10 Pa.B. 5; reserved by Executive Order No. 1986-6, dated October 24, 1986, effective November 8, 1986, 16 Pa.B. 4380. Immediately preceding text appears at serial pages (82281), (50674)—(50675), (55460)—(55461) and (82282).

§§ 1.221—1.229. [Reserved].
Subchapter S. FLOOD PLAIN MANAGEMENT

Sec. 1.231. General.
Recurrent flooding of large areas of this Commonwealth presents serious hazards and causes adverse effects upon the health, safety, welfare, and property of the Commonwealth. Extensive expenditures of public and private funds have been required to effect the repair and replacement of property and facilities as a result of the disastrous effects of recurrent flooding.

§ 1.232. Flood insurance.
The National Flood Insurance Program (42 U.S.C.A. § 4001 et seq.) provides for much needed and desirable Federal insurance protection against the ravages of flood, mudslide and flood-related erosion. Federal regulations implementing this program have been published by the Department of Housing and Urban Development, Federal Insurance Administration (FIA), at CFR Chapter X, Subchapter B (41 Fed. Reg. 46962 (October 26, 1976)). The program includes provisions for states to insure or self-insure state-owned properties and facilities in special hazard areas.

§ 1.233. Flood plain management.
The FIA regulations represent minimum standards of flood plain management for Program participation and require the promulgation and enforcement of flood plain management regulations. To permit continued Commonwealth participation in this program of flood plain management, agencies under the Governor’s jurisdiction shall take the following actions:

1. The Office of the Governor shall act as the coordinating agency in the implementation of the minimum Federal standards by the other agencies of State government. To achieve compliance with these minimum standards, each agency shall undertake the steps outlined as follows:
   (i) Each agency shall promulgate regulations or directives, where appropriate, consistent with Constitutional and statutory limitations, to implement the minimum Federal requirements for flood plain management in areas of agency activity which are or may be affected by the minimum Federal requirements as set forth in paragraph (2).
Effective immediately, each agency shall identify existing or proposed programs undertaken under and within the limits of its statutory authority which are or may be affected by the minimum Federal requirements as set forth in paragraph (2).

Each agency may consult directly with the FIA to assess the impact of the minimum requirements on its individual programs.

Each agency shall forward the result of its program review to the Governor at the earliest possible date.

(2) A development of (defined in the FIA regulations, 24 CFR 1909.1), new construction of or substantial improvements to State-owned properties and facilities in areas designated as special hazard areas by the FIA shall comply with minimum requirements for special hazard areas. These minimum requirements are set forth in 24 CFR 1910.3, 1910.4 and 1910.5.

(3) The Department of Community Affairs is hereby authorized to act as a repository for FIA flood information maps and other data that may be made available to the Commonwealth. The Department of Community Affairs shall notify other State agencies at regular intervals of the receipt of new maps and data.

(4) Agencies shall fully cooperate with each other in the exchange of data and technical expertise.

(5) As soon as possible after the issuance of this Executive Order, each agency shall have prepared for submission to FIA, regulations or directives, where appropriate, implementing the minimum Federal standards.

§ 1.234. Coordination of State agencies.

Additional instructions to assist and coordinate the uniform preparation of program reviews and the development of departmental regulations or directives shall be issued through the Directives Management System.

Subchapter T. [Reserved].

Source

§ 1.241. [Reserved].

§ 1.242. [Reserved].
Subchapter U. [Reserved]

Source


§§ 1.251—1.255. [Reserved].

Subchapter V. POLICY AND PLANNING

Sec.
1.261. Establishment.
1.262. Responsibilities.
1.263. Grants and contracts.
1.264. Director.
1.265. Rescission.

Source

The provisions of this Subchapter V adopted by Executive Order No. 1979-13, dated September 18, 1979, effective October 6, 1979, 9 Pa.B. 3360, unless otherwise noted.

§ 1.261. Establishment.

The Governor’s Office of Policy and Planning was established in 1971 and is hereby continued as the central planning agency of the Commonwealth.

§ 1.262. Responsibilities.

The Office shall be charged with the following responsibilities:
(1) Preparing plans and policy recommendations for the orderly and coordinated development of the State.
(2) Coordinating and facilitating planning by and among State agencies necessary for the orderly accomplishment of State plans and policies.
(3) Continuously surveying and reviewing the accomplishments of State government in achieving the goals and objectives set forth in State plans and policies.
(4) Consulting with other agencies in determining the feasibility of any policy, plan or program under consideration.
(5) Conducting and coordinating such research as may be necessary and desirable to develop and implement effective and efficient State policies.
(6) Conducting studies and analyses of the actual or potential effects, both short and long-term, of present or proposed State policies.
(7) Assisting in the review of Federal actions and developments affecting State plans and programs.

(8) Serving as the central agency and clearinghouse to collect and disseminate ideas and information bearing on public policy problems.

(9) Exercising such other functions as may be necessary to accomplish its duties.

§ 1.263. Grants and contracts.

The Office shall have authority to apply for, receive, administer and use any grants or other financial assistance that the Federal government and other public or private sources shall make available for the purposes of carrying out its responsibilities, and to contract with Federal, State, local or other public agencies and qualified private persons or agencies.

§ 1.264. Director.

The Governor shall appoint a Director who shall determine the staffing requirements of the Office in accordance with procedures of the Office of Budget and Administration.

§ 1.265. Rescission.

Executive Order 1978-17 is hereby rescinded and powers, duties and resources available to the Office of State Planning and Development are hereby transferred to the Office of Policy and Planning.

Subchapter W. [Reserved]

Source

§ 1.271. [Reserved].

§ 1.272. [Reserved].

Subchapter X. INSPECTOR GENERAL

Sec.

1.291. Establishment.

There is created within the Executive Office of the Governor the Office of State Inspector General.

Source


The purpose of the Office of State Inspector General is as follows:

1. To deter, detect, prevent and eradicate fraud, waste, misconduct and abuse in the programs, operations and contracting of executive agencies. For purposes of this subchapter, the term “executive agency” has the meaning given to it by section 102 of the Commonwealth Attorneys Act (71 P. S. § 732-102).

2. To keep the heads of executive agencies and the Governor fully informed about problems and deficiencies relating to the administration of programs, operations and contracting in executive agencies.

3. To provide leadership, coordination and control over satellite Inspector General Offices in designated executive agencies to insure a coordinated and efficient administration of duties and use of staff. The existing Office of Inspector General in the Department of Transportation shall continue as a satellite Inspector General Office, and it and other satellite Inspector General Offices in executive agencies shall report to and follow the direction of the State Inspector General.
§ 1.293. Duties and responsibilities.

It is the duty and responsibility of the State Inspector General to:

1. Initiate, supervise and coordinate investigative activities relating to fraud, waste, misconduct or abuse in executive agencies.

2. Recommend policies for and to conduct, supervise and coordinate activities designed to deter, detect, prevent and eradicate fraud, waste, misconduct and abuse in executive agencies.

3. Report expeditiously to and cooperate fully with the General Counsel. Whenever the State Inspector General has reasonable grounds to believe there has been a violation of criminal law or that a civil action should be initiated by the Commonwealth, the State Inspector General shall immediately refer the matter to the General Counsel. The General Counsel is responsible for referring matters to the appropriate agency for criminal prosecution or civil litigation.

4. Refer matters to the heads of executive agencies whenever the State Inspector General determines that disciplinary or other administrative action is appropriate.

§ 1.294. Authority.

(a) Additional duties and responsibilities. In addition to the authority otherwise provided in this subchapter, the State Inspector General, in carrying out duties and responsibilities, is authorized to:

1. Make investigations and reports relating to the administration of the programs and operations of an executive agency as are, in the judgment of the State Inspector General, necessary or desirable. If the State Inspector General determines that a report should be issued, he shall consult with the General Counsel before issuing the report to insure against an adverse impact on a grand jury proceeding or prosecution being conducted by a law enforcement agency.

2. Request information or assistance necessary for carrying out the duties and responsibilities provided by this subchapter from a Federal, State or local government agency or unit thereof.

3. Require and obtain immediately by written notice from officers and employees of executive agencies and the Executive Department, to the fullest extent permitted to the Governor by PA. CONST. art. 4, § 10 or other law,
information, documents, reports, answers, records, accounts, papers and other necessary data and documentary evidence.

(4) Have direct and prompt access to the heads of executive agencies when necessary for a purpose pertaining to the performance of functions and responsibilities under this subchapter.

(5) Select, appoint and employ officers and employes necessary for carrying out the functions, powers and duties of the office. The officers and employes shall be employed in accordance with current procedures of the Office of Administration and may be assigned by the State Inspector General to designated executive agencies.

(b) Request for information.

(1) Upon request of the State Inspector General for information or assistance, executive agencies shall immediately furnish the information and assistance to the State Inspector General or an authorized designee.

(2) If information or assistance requested is, in the judgment of the State Inspector General, unreasonably refused or not provided, the State Inspector General may report the circumstances to the head of the agency, the General Counsel and the Governor for appropriate action.

Source


§ 1.295. Complaints by employes; disclosure of identity; reprisals.

(a) The State Inspector General may receive and investigate complaints or information concerning the possible existence of an activity in an executive agency constituting a violation of law, rules or regulations, or mismanagement, fraud, waste of funds, abuse of authority, malfeasance, misfeasance, nonfeasance or a substantial and specific danger to the public health and safety.

(b) No person may take or threaten to take action against an employe as a reprisal for making a complaint or disclosing information to the State Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(c) The protections in this subchapter for employes who report, in good faith, fraud, waste, misconduct, malfeasance, misfeasance, nonfeasance or abuse are in addition and supplementary to protections provided by the Whistleblower Law (43 P.S. §§ 1421—1428).

Source

§ 1.296. Rescission.
Executive Order 1979-11 is rescinded.

Source

Subchapter Y. [Reserved]

Source

§§ 1.301—1.307. [Reserved].

Subchapter Z. LIFE CYCLE COSTING

Sec.
1.311. Definition.
1.312. Adoption.
1.313. Implementation.

Source
The provisions of this Subchapter Z adopted by Executive Order No. 1980-3, dated February 8, 1980, effective February 23, 1980, 10 Pa.B. 844, unless otherwise noted.

§ 1.311. Definition.
Life Cycle Costing is a method of calculating the total cost of ownership of an acquisition over its life span. It includes initial cost and expected subsequent costs of significance, as well as disposal value and another quantifiable benefits to be derived.

§ 1.312. Adoption.
The methodology of Life Cycle Costing is hereby adopted for acquisitions which will require substantial operating and maintenance costs over their life spans.
§ 1.313 Implementation.

The Department of General Services is responsible for developing, implementing, and coordinating a Life Cycle Costing procedure for acquisitions which will require substantial operating and maintenance costs. Life Cycle Costing shall be applied to the following areas:

1. State building construction during the development and design phases.
2. Equipment for state agencies which has significant operating and maintenance costs. Examples of equipment acquisitions which should be purchased using LCC methodology are as follows:
   i. Air conditioning and refrigeration equipment.
   ii. Solar equipment.
   iii. Electrical office equipment.
   iv. Heavy construction equipment.
   v. Heating and ventilating equipment.
   vi. Water heaters.

Subchapter AA. UTILIZATION OF COMMONWEALTH-OWNED AND LEASED SPACE

Sec.
1.321 Responsibilities.
1.322 Compliance by State agencies.
1.323 Requests for space.
1.324 Department relationship with other agencies.
1.325 Effective date.
1.326 Termination date.
1.327 Rescission.

Source

§ 1.321 Responsibilities.

(a) The Department of General Services is responsible for:

1. The central management of the allocation of Commonwealth-owned and leased space and shall have all necessary authority to do so properly.
2. Maintaining an inventory of all Commonwealth-owned and leased space and shall regularly inspect these facilities to ensure that they are being fully and economically used by the tenant agencies.
3. Upon receipt of a request from an agency for additional space or for the renewal of a lease for existing space, determining the following:
(i) Whether there exists proper justification for the request.

(ii) Whether the type of facility, its size and location are justified on the basis of its intended use and the actual complement of personnel using the space.

(iii) Whether the request can be accommodated by the use of already existing Commonwealth-owned or leased space, or by consolidation with existing owned or leased space.

(iv) Whether, in the case of a request for a renewal, the lease should be renewed and the terms of the renewal outlined in writing.

(4) Terminating or amending leases.

(5) Decreasing the amount of space leased.

(6) Ordering the consolidation of space within or among facilities and agencies.

(7) Moving agencies from leased space to owned space.

(8) Declaring property surplus to the needs of an agency.

(9) Taking any other action that will result in the elimination of unnecessary or inefficiently used space and the comprehensive and economic use of all existing facilities and land.

(b) No approval or consent of the tenant agency will be required for the Department of General Services to take action under this section.

§ 1.322. Compliance by State agencies.

Administrative departments, boards and commissions shall:

(1) Comply with sections 508 and 2402(a) of The Administrative Code of 1929 (71 P. S. §§ 188 and 632(a)) and 62 Pa.C.S. § 322 (relating to specific construction powers, duties and procedures) when expending funds in connection with planning for or when altering, repairing or improving Capitol Complex buildings or those buildings designated as State office buildings.

(2) Obtain approval from the Department General Services before changing the location of space assigned in Capitol Complex buildings or those buildings designated as State office buildings.

(3) Obtain approval from the Department of General Services before leasing space or renewing or renegotiating leases.

(4) Comply with section 2402(a) of The Administrative Code of 1929 by providing the Department of General Services a listing of all annual surveys of real property under their jurisdiction, and identifying among the real properties those that are surplus to their current needs.

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§ 1.323. Requests for space.

Agency heads are responsible for requesting additional space, if needed, or for renewing leases. To request additional space or to renew a lease, alternatives to doing so should be reviewed by agency heads, including the possibility of consolidations within their agency or with other agencies in already-leased or Commonwealth-owned facilities. Agency heads’ efforts, in this regard, shall be fully detailed in any request to the Department of General Services for space.

(1) Upon receipt of the Department of General Services’ response to any request for space, the agency head of the requesting agency shall direct a staff-person to prepare and provide the Department of General Services with whatever agency authorization is required, and to cooperate and comply with the Department of General Services’ decision.

(2) Consistent with the Downtown Location Law (73 P. S. §§ 821—840) and guidelines developed by the Department of General Services, agency heads are strongly encouraged to lease space in downtown areas, whenever possible. The Department of General Services will take all measures necessary to ensure that the goals of the Downtown Location Law are met, and that lessors with facilities located in downtown areas are provided with opportunities to lease those facilities to Commonwealth agencies.

§ 1.324. Department relationship with other agencies.

To implement the purpose of this subchapter, the Department of General Services may request and receive from any department, board, commission or any other agency under the jurisdiction of the Governor, cooperation, information and data needed to properly carry out its powers and duties. Independent agencies are also encouraged to participate with the provisions outlined in this subchapter.

§ 1.325. Effective date.

This subchapter is effective immediately.

§ 1.326. Termination date.

This subchapter will remain in effect unless revised or rescinded by the Governor.

§ 1.327. Rescission.

Executive Order 1991-2, Utilization of Commonwealth-Owned and Leased Space, is rescinded.
Subchapter BB. [Reserved]

Sec.
1.331. [Reserved].
1.332. [Reserved].

Source

§ 1.331. [Reserved].

§ 1.332. [Reserved].

Notes of Decisions
Approval of the Secretary
The signatures of the Secretary of the Budget and the Comptroller of the Pennsylvania Liquor Control Board (LCB) were not required for the formation of a valid and enforceable contract between the warehouser/distributor of alcoholic beverages and the LCB even though the Secretary must give final review and approval to all contracts for the purchase of services, where the Contracting for Services Manual, which was written in compliance with this regulation, also provides for sole source procurement and, in this case, the agency head provided justification for use of the sole source procurement process in writing to both the Secretary of the Budget and the Comptroller. Shovel Transfer & Storage, Inc. v. Liquor Control Board, 739 A.2d 133 (Pa. 1999).

Subchapter CC. [Reserved]

Source

§§ 1.341—1.348. [Reserved].

Subchapter DD. STATE EMPLOYEE ASSISTANCE PROGRAM

Sec.
1.351. Purpose.
1.352. Duties and responsibilities.
1.353. Rescission.

1-79

(380681) No. 501 Aug. 16
§ 1.351. Purpose.
(a) To provide a comprehensive evaluation, referral and treatment system to address the abuse of alcohol and other controlled drugs, and emotional, family, financial, marital and other personal problems which adversely affect the employe’s personal life or job performance.
(b) To provide confidential consultation to managers, supervisors, union representatives and employes on how to effectively intervene.
(c) To provide timely, professional onsite services to address the emotional impact of traumatic events which occur in the workplace.

§ 1.352. Duties and responsibilities.
(a) The Office of Administration, Bureau of Personnel, shall be responsible for the administration of this Program.
(b) The Secretary of Administration shall develop and publish directives to implement this subchapter. The directives are to delineate policy and the responsibilities of each agency head, supervisor and employe.
(c) The Secretary of Administration shall ensure the efficient and effective coordination of service between the State Employe Assistance Program, other Commonwealth programs and health care coverage.

§ 1.353. Rescission.
Executive Order 1991-6, State Employe Assistance Program, is rescinded.
§ 1.361. Designated State agency.
(a) The Department of Environmental Protection is designated as the lead agency for implementing and administering the Federal Coastal Zone Management Program for the Commonwealth of Pennsylvania.
(b) The Department of Environmental Resources shall be the single State agency to receive and administer the Federal Coastal Zone Management grants for implementing the management program.
(c) The Department of Environmental Protection, Coastal Zone Management Office, shall provide technical advice and assistance in the administration of the program, coordinate its activities with other agencies involved in the program, and act as a forum for conflict resolution among agencies in connection with their responsibilities under this order.

§ 1.362. Program objectives.
(a) The objectives of the Pennsylvania Coastal Zone Management Program are to:
   (1) Identify and evaluate those coastal resources requiring management or protection by the State.
   (2) Reexamine existing policies or develop new policies to manage these resources.
   (3) Determine specific uses and special geographic areas that are to be subject to the management program.
   (4) Identify the inland and seaward areas subject to the management program.
   (5) Provide for consideration of the national interest in the planning for and siting of facilities that will meet more than local requirements.
   (6) Include sufficient legal authorities and organizational arrangements to implement the program and to insure conformance to it.
(b) The program will involve affected State agencies in order to assure that existing authorities are used to implement the policies and management techniques identified as necessary for coastal management purposes.

§ 1.363. Coastal Zone Advisory Committee.
(a) The Committee shall be comprised of representatives designated by the heads of the following agencies:
   (1) Department of Commerce.
   (2) Department of Community Affairs.
   (3) Department of Environmental Protection.
   (4) Department of Transportation.
   (5) Governor’s Office of Policy and Planning.
   (6) Governor’s Energy Council.
   (7) Fish Commission.
Each agency shall have one vote. The Chairperson of the Committee shall be designated by the Secretary of Environmental Resources.

(b) The functions of the Committee shall be:

(1) To insure that projects or activities proposed for funding under the Coastal Zone Management Program are in concert with planned or existing State agency activities.

(2) To be responsible for State and local coordination on actions of the Coastal Zone Management Program.

(3) To participate in the continuing review of the Pennsylvania Coastal Zone Management Program.

§ 1.364. Cooperation by State agencies.

(a) To the maximum extent permitted by law, administrative departments, independent administrative boards and commissions and other State agencies shall, upon Federal approval of the Pennsylvania Coastal Zone Management Program, enforce and act consistently with the goals, policies, and objectives of that Coastal Zone Management Program and provide for adequate consideration of the national interest involved in planning for and siting of facilities and the use of resources in the coastal zones when the planning, siting and uses are of more than local interest.

(b) Each administrative department, independent administrative board and commission, and other State agencies shall, upon Federal approval of the Pennsylvania Coastal Zone Management Program and thereafter, notify the Department of Environmental Resources, Coastal Zone Management Office, pursuant to rules distributed to members of the Coastal Zone Advisory Committee, of any and all proposed activities having an effect on coastal resources.

(c) Conflicts among fiscal, developmental, service or regulatory activities of State agencies which have a direct and significant impact on the coastal zone, that cannot be resolved through available administrative mechanisms, shall be resolved by the Governor.

§ 1.365. Force and effect.

This Executive Order shall remain in full force and effect as long as monies are available for the management of the Pennsylvania Coastal Zone Management Program.
Subchapter FF. REGULATORY REVIEW AND PROMULGATION

Sec.
1.371. General requirements.
1.372. Evaluation of existing regulations.
1.373. Predrafting and drafting guidelines.
1.374. Review by Governor’s Office.
1.375. Nonregulatory documents.
1.376. Petitions.
1.378. Regulatory agendas.
1.379. Exemptions.
1.380. Applicability.
1.381. Effective date.
1.382. Rescission.

Source


§ 1.371. General requirements.

In the drafting and promulgating of new regulations and the application and review of existing regulations, agencies shall adhere to the following principles:

1. Regulations shall address a compelling public interest.
2. The costs of regulations may not outweigh their benefits.
3. Regulations shall be written in clear, concise and, when possible, non-technical language.
4. Regulations shall address definable public health, safety or environmental risks.
5. If Federal regulations exist, regulations of the Commonwealth may not exceed Federal standards unless justified by a compelling and articulable Pennsylvania interest or required by State law.
6. Compliance shall be the goal of all regulations.
7. If viable nonregulatory alternatives exist, they shall be preferred over regulations.
8. Regulations shall be drafted and promulgated with early and meaningful input from the regulated community.
9. Regulations may not hamper the Commonwealth’s ability to compete effectively with other states.
10. Agency heads shall be held directly accountable for regulations promulgated by their respective agencies.
§ 1.372. Evaluation of existing regulations.

(a) Existing regulations shall be reviewed by agencies for consistency with the principles in § 1.371 (relating to general requirements). Regulations that are inconsistent with these principles shall be considered for amendment or repeal.

(b) Agency heads shall have the flexibility to construct a program that reviews their existing regulations to assure consistency with these principles. A plan and schedule for review of existing regulations shall be submitted to the Governor’s Policy Office by August 6, 1996. The review programs shall commence by February 6, 1997.

(c) Regulations proposed for repeal should be submitted to the General Counsel, the Secretary of the Budget and the Governor’s Policy Director along with a Repeal Analysis Form. The analysis shall state:

1. The name of the agency.
2. The name of a contact person at that agency.
3. A short title of the regulation.
4. An explanation of the regulation.
5. A justification for the proposed repeal.
6. A proposed schedule for repeal—noting any public comment periods.
7. Any costs or savings, or both, associated with the repeal.

(d) If a statute prohibits the repeal of a regulation that the agency deems to be inconsistent with the principles in § 1.371, the agency head shall submit to the General Counsel, the Governor’s Policy Director and the Secretary for Legislative Affairs the specific citation for the statute that prohibits the repeal and the citation for any regulation that is determined to be inconsistent with the principles in § 1.371, the nature of and reason for the inconsistency, and a recommendation for legislative action, if appropriate.

§ 1.373. Predrafting and drafting guidelines.

(a) Before drafting a regulation, agencies, when practical, shall undertake extensive public outreach to those who are likely to be affected by the regulation. Creating advisory committees, using regulatory negotiation and developing other creative procedures are encouraged as means to solicit the public’s input during the regulatory development process.

(b) Those to be affected by the regulation should continue to be consulted during the drafting process. When appropriate, members of the regulated community should be involved with the formulation of language, the development of standards and other areas in which the regulated community has an interest or can provide insight, or both. During the regulation development and drafting process, agencies should advise and consult with the Governor’s Policy Office, the Office
of General Counsel and the Budget Office whenever the agency determines that
the involvement would hasten the review process.

c) Each agency shall develop its own policies regarding public involvement
tailored best to meet the needs of the agency and the regulated community.

d) By August 6, 1996, agencies shall submit to the Governor’s Policy Office
their internal guidelines for predrafting and drafting public outreach.

§ 1.374. Review by Governor’s Office.

(a) Prior to submitting a proposed rulemaking, the agency head shall evalu-
ate each regulation and attest to the fact that the regulation addresses a compel-
ing public need that can be best remedied by the promulgation of the regulation.

(b) The agency head shall submit to the General Counsel, the Secretary of the
Budget and the Governor’s Policy Director a written regulatory analysis. The
analysis shall state:

(1) The name of the agency.

(2) The name of a contact person at that agency.

(3) A short title for the regulation and a citation from the Pennsylvania
Code.

(4) Whether the regulation is a proposed, final-form or final-omitted rule-
making.

(5) A brief, clear and, if possible, nontechnical explanation of the regula-
tion.

(6) The statutory authority or mandate for the regulation.

(7) The compelling public need that justifies the regulation.

(8) The public health, safety or environmental risks associated with non-
regulation.

(9) Individuals or groups that are likely to benefit from the regulation.

(10) Individuals, groups or entities that will be required to comply with the
regulation.

(11) The outreach conducted by the agency with the regulated community
prior to submission of the regulation.

(12) An estimate of the costs or savings, or both, associated with compli-
ance and implementation.

(13) A cost/benefit analysis of the regulation.

(14) Nonregulatory alternatives considered and the reasons for their dis-
missal.

(15) Alternative regulatory schemes considered and the reasons for their
dismissal.

(16) A statement of the compelling Pennsylvania interest if the regulation
exceeds Federal standards.

(17) Any requirements that would place the Commonwealth at a competi-
tive disadvantage compared to other states.

(18) An intra-agency review schedule for the regulation.
(c) Each regulation submitted for review shall contain a brief preamble, written in clear and concise language, which describes in nontechnical terms the compelling public need the regulation is designed to address, what the regulation requires in legal and practical terms and who the regulation is likely to affect.

(d) The regulatory analysis, along with the preamble and draft regulation, will be reviewed by the Office of General Counsel for form, language and legal authority. The Governor’s Policy Office will review the request to determine that public interest is compelling, that no viable alternative to the regulation exists and that the costs of the regulation reasonably relate to the benefits. The Office of General Counsel will also consider whether the proposed regulation exceeds Federal standards. If the regulation does exceed Federal standards, the Policy Office will then evaluate whether the regulation is justified by a compelling and unique Pennsylvania interest. The Budget Office will evaluate the cost analysis prepared by the agency and prepare a fiscal note for the regulation.

(e) An agency may not proceed with a proposed, final-form or final-omitted regulation until the General Counsel, the Secretary of the Budget and the Policy Director have informed the agency that the regulation is consistent with the regulatory principles and overall policies of the Administration. Review by these three offices will be conducted in a fair and timely manner.

§ 1.375. Nonregulatory documents.

(a) Nonregulatory public documents such as internal guidelines, policy statements, guidance manuals, decisions, rules and other written materials that provide directives, guidance or other relevant compliance-related information to the public shall be cataloged by every agency.

(b) The cataloged titles of these documents, along with an agency contact and phone number, shall be published in the Pennsylvania Bulletin on August 3, 1996. Each year thereafter every agency shall publish and update its list in the Pennsylvania Bulletin on the first Saturday in August.

§ 1.376. Petitions.

To further the goal of greater public participation in the regulatory process, individuals, groups and businesses are encouraged to use the regulatory petition process outlined in 1 Pa. Code § 35.18 (relating to petitions for issuance, amendment, waiver or deletion of regulations). Agencies that have not already done so shall develop internal procedures to receive and review petitions in a fair and timely manner.

§ 1.377. Continual review of regulations.

Regulations shall be reviewed in accordance with the review schedule published annually by each agency. As part of its review, the agency shall determine whether the regulation continues to effectively fulfill the goals for which it was intended and remains consistent with the principles in § 1.371 (relating to general requirements).
§ 1.378. Regulatory agendas.
Semiannually, on February 1 and July 1, each agency head shall submit to the General Counsel, the Secretary of the Budget and the Governor’s Policy Office Director, for publishing in the Pennsylvania Bulletin, an agenda of regulations under development or consideration. The agenda shall describe the regulations being considered, the proposed date for promulgation, the need and legal basis for the action being taken and the status of regulations previously listed on the agenda. Each item on the agenda shall also include a contact person within the agency from whom additional information may be obtained.

§ 1.379. Exemptions.
The procedure prescribed by this subchapter does not apply to:
(1) Emergency regulations as defined in the Regulatory Review Act (71 P. S. §§ 745.1—745.15).
(2) A regulation for which consideration or reconsideration under the terms of this subchapter would conflict with deadlines imposed by statute, consent decree or by judicial order, provided that the regulation is reported to the Director of the Governor’s Policy Office together with a brief explanation of the conflict. The agency shall publish in the Pennsylvania Bulletin a statement of the reasons why it is impracticable for the agency to follow the procedures of this subchapter with respect to such a rule. The agency, in consultation with the Governor’s Policy Office, shall adhere to the requirements of this subchapter to the extent permitted by statutory or judicial deadlines.

§ 1.380. Applicability.
(a) This subchapter applies to all agencies under the jurisdiction of the Governor’s Office.
(b) This subchapter is intended only to improve the internal management of executive agencies and is not intended to create a right or benefit, substantive or procedural, enforceable at law by a party against the Commonwealth, its agencies, its officers or any person.

§ 1.381. Effective date.
This subchapter is effective immediately.

§ 1.382. Rescission.
Executive Order 1982-2 is rescinded.

Subchapter GG. [Reserved]

Source
§§ 1.391—1.394. [Reserved].

Subchapter HH. [Reserved]

Source

§ 1.401. [Reserved].

Subchapter II. [Reserved]

Source

§ 1.421. [Reserved].

Subchapter JJ. ACCOUNTING AND FINANCIAL REPORTING POLICIES AND PROCEDURES

Sec.
1.431. Secretary and Department head responsibilities.

Source
The provisions of this Subchapter JJ adopted by Executive Order No. 1984-3, dated October 11, 1984, 14 Pa.B. 3954, unless otherwise noted.

§ 1.431. Secretary and Department head responsibilities.

(a) Budget Secretary. The Secretary of Budget shall be responsible for:

(1) Developing and installing accounting and financial reporting systems that will be in adherence with GAAP and that will:

   (i) Demonstrate compliance with all legal requirements and contractual obligations.

   (ii) Provide for adequate and proper stewardship over Commonwealth resources, property, and other assets.

   (iii) Provide appropriate and complete information for budgetary control.

(2) Publishing an audited Comprehensive Annual Financial Report of the Commonwealth, based on criteria developed by the National Council on Gov-
ernmental Accounting in their Statement 3, Defining the Governmental Reporting Entry, and adopted by the Governmental Accounting Standards Board or successor.

(b) Department heads. The heads of independent departments, boards, and commissions and the governing bodies of quasi-governmental agencies included in the reporting entry are urged to use GAAP policies and procedures and to extend their cooperation to the Secretary of the Budget in compiling data necessary to the preparation of the annual report.

Subchapter KK. COMMONWEALTH SINGLE AUDIT COORDINATOR

Sec.
1.441. Designation of Commonwealth coordinator.
1.442. Agency responsibility.

Source


§ 1.441. Designation of Commonwealth coordinator.

The Office of the Budget is designated to act as the Commonwealth Single Audit Coordinator. The Commonwealth Single Audit Coordinator is responsible for developing single audit policy for Commonwealth agencies and for coordinating the implementation of the Single Audit Act of 1984 (31 U.S.C.A. §§ 7501—7507) and related policies.

§ 1.442. Agency responsibility.

The head of each agency responsible for administering a Federal financial assistance program is to designate a single audit contact person to represent the agency on single audit matters. Each contact person should be in a position to make or obtain timely decisions regarding audits and have complete access to programs, personnel, and single audit related material within the agency. The name and position of each contact person is to be submitted to the Office of the Budget, Comptroller Operations, Bureau of Audits, by April 1, 1986, and kept current thereafter.
Subchapter LL. MINORITY AND WOMEN BUSINESS ENTERPRISE

Sec.
1.452. Responsibilities of agency heads.
1.453. Objective.
1.454. Definitions.
1.455. Rescission.
1.456—1.459. [Reserved].

Source


The Department of General Services will do the following:

(1) Develop and implement policy initiatives to substantially increase contracting and subcontracting opportunities for minority and women-owned businesses and other disadvantaged businesses in the Commonwealth’s procurement of supplies, services and construction.

(2) Centrally manage Commonwealth information, policies, procedures and issues pertaining to minority and women-owned businesses and other disadvantaged businesses.

(3) Expand the pool of certified minority and women-owned businesses by:

   (i) Repealing the current 8-year graduation requirement for Commonwealth certified minority and women-owned businesses.

   (ii) Periodically adjusting the business size limitation for Commonwealth certification.

   (iii) Establishing reciprocal certification agreements with other governmental and nongovernmental organizations.

   (iv) Establishing an expedited certification process for those minority and women-owned businesses certified by other certifying bodies.

(4) Enforce compliance with the minority and women-owned business program by both business and Commonwealth agencies.
(5) Make investigations and reports relating to the administration of the minority and women-owned business program and operations of an executive agency as they relate to the program.

(6) Request information or assistance as may be necessary, for carrying out the duties and responsibilities provided in this subchapter from any Federal, State or local government agency or unit thereof.

§ 1.452. Responsibilities of agency heads.

Agency heads under the Governor’s jurisdiction will:

(1) Be responsible for ensuring that all competitive contract opportunities issued by their agency seek to maximize participation by minority and women-owned businesses and other disadvantaged businesses.

(2) Give consideration, when possible and cost effective, to contractors offering to utilize minority and women-owned businesses and disadvantaged businesses in the selection and award of contracts.

(3) Ensure that the agency’s commitment to the minority and women-owned business program is clearly understood and appropriately implemented and enforced by all agency employees.

(4) Designate a responsible official to supervise the agency minority and women-owned business program and ensure compliance within the agency.

(5) Furnish the Department of General Services, upon request, all requested information or assistance.

(6) Recommend sanctions to the Secretary of General Services, as may be appropriate, against businesses that fail to comply with the policies of the Commonwealth minority and women-owned business program.

§ 1.453. Objective.

The Department of General Services (Department) will seek to increase the utilization of minority and women-owned businesses and other disadvantaged businesses in all competitive contracting opportunities. To achieve this objective, the Department will:

(1) Establish procurement policy that will give consideration, when possible and cost effective, to contractors offering to utilize minority and women-owned businesses and disadvantaged businesses in the selection and award of contracts.

(2) Develop and maintain an effective enterprise-wide data collection system in procurement and contracting, and institute quarterly and annual reporting requirements on participation level and spending in each agency.

(3) Create an internal data linkage so that agency buyers and purchasing agents will have a substantial number of commodity or service specific minority and women-owned businesses to solicit.

(4) Train procurement buyers and purchasing agents so they can assist in the Department’s mission.
§ 1.454. Definitions.

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

Disadvantaged business—A business that is owned or controlled by a majority of persons, not limited to members of minority groups, who are subject to racial or ethnic prejudice or cultural bias.

Minority-owned business—A business owned and controlled by a majority of persons who are African-Americans, Hispanic Americans, Native Americans, Asian-Americans, Alaskans and Pacific Islanders.

Women-owned business—A business owned and controlled by a majority of persons who are women.

§ 1.455. Rescission.

Executive Order 1996-8, Minority and Women Business Enterprise and Contract Compliance Programs, is rescinded.

§ 1.456—1.459. [Reserved].

Subchapter MM. UPPER DELAWARE FEDERAL SCENIC RIVER

Sec.
1.471. [Reserved].
1.472. Program objectives.
1.474. Cooperation by State agencies.
1.475. Force and effect.
1.476. Recission.

Source


§ 1.471. [Reserved].

§ 1.472. Program objectives.

(a) The objectives of the Upper Delaware Federal Scenic River designation are to:

(1) Protect and maintain the unique scenic, cultural and natural qualities of the Upper Delaware River corridor including its rare and endangered plant and animal species and rare and natural habitats.
(2) Maintain and enhance the corridor’s social and economic vitality and its diversity consistent with efforts to protect the recognized values of the river corridor.

(3) Conserve the resources of the Upper Delaware primarily through the use of existing local and State land use controls and voluntary private landowner actions with local land use ordinances.

(4) Protect private property rights and allow for the use and enjoyment of the river corridor by both year-round and seasonal residents.

(5) Provide for planned growth consistent with local ordinances to ensure optimum use of existing public services while maintaining and conserving the essential character of the river valley.

(6) Maintain and improve fisheries and wildlife habitat to ensure the continued public enjoyment of hunting, fishing and trapping consistent with State laws.

(7) Foster a public recognition of the Upper Delaware River Valley as a place with its own identity, continuing history and destiny to be shaped by its residents.

(8) Provide for the continued public use and enjoyment of a full range of recreation activities as is compatible with the other goals.

(9) Encourage maximum local government official, private landowner, private group and citizen involvement in the management of the Upper Delaware.

(b) The program will involve affected State agencies to ensure that existing authorities are used to implement the policies and management techniques identified as necessary for river management purposes.

§ 1.473. Upper Delaware Council.

The Secretary of the Department of Conservation and Natural Resources is the Commonwealth’s appointed representative to the Upper Delaware Council.

§ 1.474. Cooperation by State agencies.

(a) The Department of Conservation and Natural Resources is the single State agency to receive and administer Federal grants for implementing the management program of the Upper Delaware Federal Scenic River.

(b) The Department of Conservation and Natural Resources, Division of Greenways and Conservation Partnership, shall provide technical advice and assistance in the administration of this program, coordinate its activities with other agencies involved in the program, and act as a forum for conflict resolution among agencies in connection with their responsibilities under this subchapter.
(c) To the maximum extent permitted by law, all administrative departments, independent administrative boards and commissions, and other State agencies shall act consistently with the goals, policies and objectives of the Upper Delaware Scenic River Management Plan and provide for adequate consideration of the National interest involved in planning for and siting of facilities and the use of resources in the Upper Delaware Scenic River corridor when the planning, siting and uses are of more than local interest.
(d) Each administrative department, independent administrative board and commission, and other State agencies shall notify the Department of Conservation and Natural Resources, Division of Greenways and Conservation Partnership, of proposed activities having an affect upon Delaware River resources.

(e) Conflicts among fiscal, development, service or regulatory activities of State agencies which have a direct and significant impact on the Upper Delaware River resources and cannot be resolved through available administrative mechanisms will be resolved by the Governor.

§ 1.475. Force and effect.
This subchapter shall remain in effect as long as the Upper Delaware Scenic River Management Plan is in effect.

§ 1.476. Rescission.
Executive Order 1989-2 is rescinded.

Subchapter NN. MASTER LEASING PROGRAM

Sec.
1.481. Development and implementation.
1.482. Implementation by secretaries.
1.483. Information to administrative agencies.
1.484. Cooperation by agencies.
1.485. Periodic payments required.
1.486. Compliance required; exceptions.

Source
The provisions of this Subchapter NN adopted by Executive Order No. 1989-3, dated March 2, 1989, 19 Pa.B. 1520, unless otherwise noted.

§ 1.481. Development and implementation.
The Secretary of General Services shall, with the guidance and assistance of the Secretary of the Budget, proceed with the development and implementation of a Master Leasing Program.

§ 1.482. Implementation by secretaries.
The program shall be implemented by directives, statements of policy, rules and regulations that the secretaries promulgate.

§ 1.483. Information to administrative agencies.
The directives, statements of policy, rules and regulations shall provide information to Commonwealth administrative agencies on the benefits and requirements of the Master Leasing Program.
§ 1.484. Cooperation by agencies.
Commonwealth administrative agencies shall fully cooperate with, and provide requested information and documentation, on a priority basis, to the Department of General Services, the Office of the Budget, and the attorneys, financial advisor, master lessor, trustee bank, underwriters and other necessary professionals appointed by the Department.

§ 1.485. Periodic payments required.
Commonwealth administrative agencies shall make periodic payments in a timely manner for equipment acquired through the Master Leasing Program.

§ 1.486. Compliance required; exceptions.
No Commonwealth administrative agency may arrange for financing of equipment leases or installment purchases, except through the Department of General Services’ Master Leasing Program. Exceptions to this policy shall be granted, in writing, by the Secretary of General Services.

APPENDIX A

(Editor’s Note: 1 Pa. Code § 3.13(b) (relating to contents of Bulletin) gives the Legislative Reference Bureau discretion to exclude from publication in the Pennsylvania Bulletin classes of documents which are voluminous and applicable only to Commonwealth property or contracts or agency organization, management or personnel. Section 3.13(c) requires the Bureau to publish and codify a summary table of documents filed under § 3.13(b).)


Subchapter OO. (Reserved)

Sec.
1.491—1.496. (Reserved).

Source
The provisions of this Subchapter OO adopted by Executive Order No. 2003-3, dated April 30, 2003, 33 Pa.B. 4065; reserved by Executive Order 2012-04, dated March 22, 2012, 42 Pa.B. 6998, unless otherwise noted. Immediately preceding text appears at serial pages (297898) to (297900) and (315727).

§§ 1.491—1.496. (Reserved).
Subchapter PP. [Reserved]

Source
The provisions of this Subchapter PP adopted by Executive Order No 2004-12, dated December 15, 2004, 35 Pa.B. 6737; reserved by Executive Order No. 2019-01, dated January 8, 2019, 49 Pa.B. 438, unless otherwise noted. Immediately preceding text appears at serial pages (364321) to (364322), (315729) to (315730) and (380263).

§§ 1.501—1.505. [Reserved].

Subchapter QQ. [Reserved]

Sec. 1.511—1.514. [Reserved].

Source

§§ 1.511—1.514. [Reserved].
§ 1.521. Office of Diversity Management.

The Office of Diversity Management (Office) shall be managed by the Chief Diversity Officer, an executive-level position within the Office of Administration, who shall report directly to the Governor or the Governor’s designee. The Chief Diversity Officer shall consult with the Governor’s Executive Diversity Council on matters related to diversity strategies implementation; advise the Secretary of Administration on matters related to equal employment opportunity, recruitment, placement, retention, and other workforce and workplace-related issues; and advise agencies and offices on procurement and contracting issues, as they may relate to diversity management and planning.

(1) **Responsibilities.** The Office shall create a coordinated Commonwealth-wide, strategic approach to diversity management and:

   (i) Develop, design and implement a strategic plan to accomplish the Commonwealth’s diversity vision, mission and goals.

   (ii) Identify acceptable measures, coordinate and guide diversity efforts, and establish clear direction and expectations for diversity management efforts in this Commonwealth.

   (iii) Incorporate diversity management best practices into Commonwealth agency policies, practices, structures, goals and objectives.

   (iv) Coordinate the minority participation data of all purchasing and contracting agencies under the Governor’s jurisdiction.

   (v) Prepare an annual report to the Legislature.

(2) **Authority.** Existing policies and practices of agencies under the Governor’s jurisdiction shall be subject to the advice, direction and guidance of the Chief Diversity Officer so that they comply with Commonwealth-wide diversity objectives promulgated by the Office. Agencies under the Governor’s jurisdiction shall participate in diversity planning, policy development and implementation. The Chief Diversity Officer may appoint, from time to time, ad hoc advisory groups and committees to assist with matters related to diversity management and inclusion, to engage public discussion, or to accomplish the responsibilities of the Office.

Source

The provisions of this § 1.521 amended by Executive Order No. 2008-06, as amended, dated April 15, 2010, 40 Pa.B. 2513, unless otherwise noted. Immediately preceding text appears at serial page (338177).

§ 1.522. Governor’s Executive Diversity Council.

(a) **Composition.** The Governor’s Executive Diversity Council (Executive Council) consists of the following members, who serve *ex officio*:

(1) Governor’s Chief of Staff.

(2) Secretary of Administration, who serves as Chairperson of the Council.

Source

The provisions of this § 1.522 adopted by Executive Order No. 2008-06, dated July 29, 2008, 38 Pa.B. 5738, unless otherwise noted.
Responsibilities. The responsibilities of the Executive Council are to:

1. Provide guidance, direction and approval to the Office of Diversity Management on enterprise-wide diversity priorities, and to guide the Commonwealth’s diversity agenda and strategic plan implementation.

2. Convene on a regular basis to discuss, approve and prioritize enterprise-wide diversity goals, objectives, strategies and recommendations provided by the Governor’s Diversity Planning Council.

§ 1.523. Governor’s Diversity Planning Council.

(a) Composition. The Governor’s Diversity Planning Council (Planning Council) consists of the following members, who serve ex officio:

1. Deputy Secretary for Human Resources and Management, Office of Administration.

2. Deputy Secretary for Procurement, Department of General Services.

3. Deputy Secretary for Minority and Women’s Business Opportunities, Department of General Services.

4. Executive Director for the Governor’s Advisory Commission on African American Affairs.

5. Executive Director for the Governor’s Advisory Commission on Asian American Affairs.

6. Executive Director for the Governor’s Advisory Commission on Latino Affairs.

7. Executive Director for the Governor’s Cabinet for People with Disabilities.

8. Executive Director for the Pennsylvania Commission for Women.


10. A deputy secretary designated by the Chief Diversity Officer from an agency in each of four practice groups organized around the following: Public Safety; Health and Human Services; Environment; and Government Operations. Practice groups may be organized as presently structured under the Office of Information Technology Keystone Plan or differently as determined by the Chief Diversity Officer to meet agency functions, missions and practices.

(b) Responsibilities. The responsibilities of the Planning Council are to:

1. Conduct meetings on a regular basis to identify critical diversity issues, including those that should be addressed in a comprehensive manner.

2. Assist the Office of Diversity Management in the development of an enterprise-wide diversity strategic plan and make recommendations to the Chief Diversity Officer for implementation of the plan.
§ 1.524. Relationship with other agencies.  
Agencies under the Governor’s jurisdiction shall cooperate with, and provide assistance and support to, the Office of Diversity Management, the Executive Council and the Planning Council. The Office of Diversity Management may also be directed and appointed by the Governor to participate in certain other commissions, panels, cabinets, and initiatives as deemed appropriate.

§ 1.525. Effective date.
This subchapter shall take effect immediately, and remain in effect unless rescinded by the Governor.

Subchapter SS. CREATING OPPORTUNITIES FOR SMALL AND DISADVANTAGED BUSINESSES IN THE EXPENDITURE OF FEDERAL STIMULUS MONIES

Sec.
1.531. Responsibilities of Commonwealth agencies.
1.532. Small business disadvantaged status.
1.533. Contractors and grantees.
1.534. Federal requirements.
1.535. Public awareness and outreach.
1.536. Written report.
1.537. Small business outreach.
1.538. Small veteran-owned businesses.
1.539. Effective date.
1.540. Termination date.

Source
The provisions of this Subchapter SS adopted by Executive Order No. 2009-02, dated October 28, 2009, 39 Pa.B. 6723, unless otherwise noted.

§ 1.531. Responsibilities of Commonwealth agencies.
1. Commonwealth agencies shall seek to provide maximum practicable opportunities for small disadvantaged businesses to compete for contracts and grants and to participate as contractors, professional service providers, subcontractors, and suppliers, and shall in good faith make their best efforts to reach the ten percent aspirational goal. At a minimum, Commonwealth agencies shall:
   (1) Inform the Department of General Services’ Bureau of Minority and Women Business Opportunities of contracting opportunities and competitive grant opportunities at the same time that it advertises or otherwise posts public notices of such opportunities.
   (2) Participate in outreach activities and events to increase small disadvantaged business interest and participation in American Recovery and Reinvestment Act of 2009 (ARRA) opportunities.
   (3) Use the Department of General Services’ web site (www.dgs.state.pa.us) to identify Department of General Services-certified minority business enterprises (MBEs) and small women business enterprises (WBEs) for solicitation for ARRA opportunities.
   (4) Track and report to the Department of General Services information on MBE and WBE participation in ARRA opportunities.
§ 1.532. Small business disadvantaged status.
Commonwealth agencies shall, when permitted by law, consider a small business’ disadvantaged status as a factor in the procurement and grant selection process to the extent permitted by the United States Constitution, Pennsylvania Constitution, Commonwealth Procurement Code, or other state or Federal law.

§ 1.533. Contractors and grantees.
In addition to complying with existing Commonwealth policy requirements relating to the solicitation and utilization of small disadvantaged businesses, Commonwealth agencies shall require contractors and grantees to make reasonable and good faith efforts to provide maximum practicable opportunities for small disadvantaged businesses to participate as contractors, professional service providers, subcontractors, and suppliers. Contractors and grantees, at a minimum, shall be required to:

1. Consult with the Department of General Services’ Bureau of Minority and Women Business Opportunities to ensure significant American Recovery and Reinvestment Act of 2009 (ARRA) opportunities for small certified minority business enterprises (MBEs) and women business enterprises (WBEs) unless the Department of General Services agrees that contractor or grantee participation in outreach activities will satisfy this requirement.
2. Participate in outreach activities and events to increase small disadvantaged business interest and participation in ARRA opportunities.
3. Use the Department of General Services’ web site (www.dgs.state.pa.us) to identify certified MBEs and WBEs as potential sources for ARRA opportunities.
4. Include certified MBEs and WBEs on solicitation lists.
5. Prepare and keep records of solicitations, including a bid tabulation, showing names of all firms solicited and the dollar amount of the bid, quote or proposal, as well as copies of all bids, quotes, and proposals received.
6. Provide monthly reports to the Department of General Services’ Bureau of Minority and Women Business Opportunities on MBE and WBE utilization.

§ 1.534. Federal requirements.
Commonwealth agencies shall fully comply with all Federal Disadvantaged Business Enterprises (DBE) requirements and Commonwealth small disadvantaged business policy requirements. To the extent that the Federal DBE requirements conflict with the requirements of this subchapter, the Federal DBE requirements shall prevail. To the extent that Federal funding would be jeopardized by implementation of any requirement set forth in this subchapter, the requirement may not be imposed. Agencies shall verify with the appropriate administering Federal agency that implementation of these requirements do not jeopardize American Recovery and Reinvestment Act of 2009 funding.

§ 1.535. Public awareness and outreach.
The Department of General Services’ Bureau of Minority and Women Business Opportunities shall notify, collaborate with, and involve organizations that represent respective minority community groups to ensure effective public awareness and outreach.
§ 1.536. Written report.
The Department of General Services shall prepare and submit a written report, on at least a quarterly basis, to the Governor and Stimulus Oversight Commission on American Recovery and Reinvestment Act of 2009 participation by all Federal Disadvantaged Business Enterprises, minority business enterprises and women business enterprises.

§ 1.537. Small business outreach.
The Department of Community and Economic Development shall work through small business development centers to reach out to small businesses and provide information on contracting, professional service, subcontracting, and purchasing opportunities.

§ 1.538. Small veteran-owned businesses.
The Department of Military and Veteran’s Affairs shall, in cooperation with the Department of General Services and the Department of Community and Economic Development, develop outreach efforts to increase participation in contracting, professional service, subcontracting, and purchasing opportunities with small veteran-owned businesses.

§ 1.539. Effective date.
This subchapter shall take effect immediately.

§ 1.540. Termination date.
This subchapter shall remain in effect until September 30, 2011.

Subchapter TT. [Reserved]

Sec.
1.551—1.558. [Reserved].

Source

§ 1.551—1.558. [Reserved].

Subchapter UU. [Reserved]

Sec.
1.561. [Reserved].
1.562. [Reserved].

Source
Subchapter VV. SMALL BUSINESS PROCUREMENT INITIATIVE

Sec.
1.571. Purpose.
1.572. Duties.
1.573. Commonwealth agencies.
1.574. Implementation.
1.575. Effective date.
1.576. Termination date.

Source
The provisions of this Subchapter VV adopted by Executive Order No. 2011-09, dated November 21, 2011, 41 Pa.B. 6873, unless otherwise noted.

Cross References
This subchapter cited in 4 Pa. Code § 58.301 (relating to policy).

§ 1.571. Purpose.
The purpose of the Small Business Procurement Initiative is to direct the Department of General Services to develop and implement policy initiatives to increase opportunities for small businesses to compete for award of Commonwealth contracts as prime contractors.

§ 1.572. Duties.
The Department of General Services (Department) shall:
(1) Develop appropriate standards for qualification as a small business, including number of employees and dollar volume of business. The Department may develop tiers of participation for small businesses of varying size.
(2) Establish agency goals for contracting with small businesses.
(3) Develop specific guidelines for competition for Commonwealth procurement contracts identified for award to small businesses.
(4) Develop policy that will provide for alternative and reduced bonding requirements and make special provisions for progress payments.
(5) Develop and implement monitoring and reporting systems to measure the effectiveness of all small business procurement initiatives.
(6) Implement enforcement measures to verify the eligibility of competitors and to investigate allegations of noneligibility.
(7) Assist agencies in:
   (i) Identifying procurement contracts suitable for competition by, and award to, small businesses.
   (ii) Identifying qualified small businesses to solicit for procurement contracts.
   (iii) Training agency personnel.
§ 1.573. Commonwealth agencies.
Commonwealth agencies under the Governor’s jurisdiction shall identify contracts for award to small businesses under direction provided by the Department of General Services. Independent agencies are also encouraged to participate in the Small Business Procurement Initiative. For contracts identified for award to small businesses, agencies shall seek competition only from qualified small businesses and award contracts only to qualified small businesses.

§ 1.574. Implementation.
Agency heads shall:
(1) Ensure that the agency’s small business participation goals are clearly understood and properly implemented by agency employees.
(2) Designate an appropriate employee to supervise the agency’s role in implementing small business procurement initiatives and to ensure compliance with this subchapter.
(3) Prepare and submit reports to the Department of General Services, on forms and in the format requested by the Department of General Services, on the agency’s progress in meeting goals for small business participation.

§ 1.575. Effective date.
This subchapter takes effect immediately.

§ 1.576. Termination date.
This subchapter remains in effect unless revised or rescinded by the Governor.

Subchapter WW. [Reserved]

Source
The provisions of this Subchapter WW adopted by Executive Order No. 2011-08, dated October 6, 2011, 41 Pa.B. 6963; reserved by Executive Order No. 2016-08, dated December 5, 2016, 46 Pa.B. 7993, unless otherwise noted. Immediately preceding text appears at serial pages (359971) to (359972) and (382383).

§§ 1.581—1.587. [Reserved].

Subchapter XX. VETERAN-OWNED SMALL BUSINESS PROCUREMENT INITIATIVE

Sec.
1.591. Purpose.
1.592. Responsibilities.
1.593. Definitions.
1.594. Effective date.
1.595. Termination date.

Source
The provisions of this Subchapter XX adopted by Executive Order No. 2011-10, dated December 7, 2011, 42 Pa.B. 1631, unless otherwise noted.

Cross References
This subchapter cited in 4 Pa. Code § 58.301 (relating to policy).
§ 1.591. Purpose.
The purpose of this subchapter is to ensure that agencies substantially increase opportunities for VBEs and SDVBEs to participate in Commonwealth contracting opportunities as contractors, subcontractors, suppliers and professional service providers.

§ 1.592. Responsibilities.
(a) The Department of General Services (Department) shall:
   (1) Develop and implement policy initiatives to substantially increase contracting and subcontracting opportunities for VBEs and SDVBEs.
   (2) Establish a certification process for VBEs and SDVBEs and maintain and update publicly accessible lists of VBEs and SDVBEs that are certified by the Department.
   (3) Identify and contact VBEs, SDVBEs and veteran organizations to inform them of Commonwealth procurement opportunities and to solicit their participation as contractors, subcontractors, suppliers and professional service providers.
   (4) Identify and contact charitable, nonprofit organizations that manufacture products or perform services and employ veterans with disabilities to identify possible contracting opportunities under 62 Pa.C.S. § 520 (relating to supplies manufactured and services performed by persons with disabilities).
   (5) Enforce compliance, from participating businesses and other Commonwealth agencies, with this subchapter.
   (6) Compile agency-reported information on the participation of VBEs and SDVBEs in Commonwealth contracting opportunities and prepare a written annual report for the Governor. The report must include:
      (i) Cumulative information as to agency efforts to increase VBE and SDVBE participation in Commonwealth contracts and subcontracts.
      (ii) The actual dollar amount of participation.
      (iii) The efforts the Department and the agencies plan to take to improve VBE and SDVBE participation in the succeeding year.
   (7) Request information or assistance as may be necessary for carrying out the duties and responsibilities under this subchapter from the Department of Military and Veterans Affairs.
(b) Commonwealth agencies shall:
   (1) Develop and document an agency strategy to implement the policy in § 1.591 (relating to purpose).
   (2) Encourage and facilitate participation by VBEs and SDVBEs in the award of agency procurement contracts.
   (3) Encourage agency contractors to subcontract with VBEs and SDVBEs and actively monitor and evaluate their efforts.
   (4) Participate in outreach activities and events to increase the interest and participation of VBEs and SDVBEs in procurement contracts.
   (5) Solicit VBEs and SDVBEs to compete for contracting opportunities and disseminate information to VBEs and SDVBEs that will assist these businesses in participating in agency procurement contracts.
(6) Track and report to the Department, annually, on agency efforts to meet the purpose of increasing VBE and SDVBE participation.

(7) Include VBEs and SDVBEs in the competition for those agency contracts that are identified for competition by small businesses.

(8) Consider VBE and SDVBE status as a factor in the procurement process when permitted by law.

(c) Agency heads shall:

(1) Ensure that the agency’s commitment to the veteran-owned small business procurement initiative is clearly understood and appropriately implemented and enforced by appropriate agency personnel.

(2) Designate an appropriate employee to supervise the agency’s veteran-owned small business procurement initiative and ensure compliance within the agency.

(3) Furnish to the Department, upon request, related information or assistance.

(4) Participate in outreach activities and events to increase interest and participation by VBEs and SDVBEs in Commonwealth procurements.

§ 1.593. Definitions.

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

SDVBE—Service-disabled veteran-owned small business enterprise—A small business owned and controlled by either of the following:

(i) A service-disabled veteran.

(ii) A surviving spouse or permanent caregiver of a veteran if approved by the Department of General Services.
Service-disabled—A veteran who possesses either a disability rating letter issued by the United States Department of Veterans Affairs or a disability determination from the United States Department of Defense.

Small business—A business that does not exceed the limitation on revenue or number of employees established by the Department of General Services for designation as a small business.

VBE—Veteran-owned small business enterprise—A business owned and controlled by a veteran.

Veteran—A person who served on active duty in the United States Armed Forces, including the Reserve and National Guard, who was one of the following:

(i) Discharged or released from service under honorable conditions.
(ii) A Reservist or member of the National Guard who completed an initial term of enlistment or qualifying period of service.
(iii) A Reservist or member of the National Guard who was disabled in the line of duty during training.

(b) These terms shall be further defined by the Department of General Services, with guidance by the Department of Military and Veteran Affairs, in Manual 215.3, Procurement Handbook, as issued by the Department of General Services.

§ 1.594. Effective date.
This subchapter takes effect immediately.

§ 1.595. Termination date.
This subchapter remains in effect unless revised or rescinded by the Governor.
§§ 1.701—1.705. [Reserved].

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.

Source
The provisions of this Subchapter AAA adopted by Executive Order No. 2015-02, dated January 20, 2015, 45 Pa.B. 653, unless otherwise noted.

§ 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.

Cross References
This section cited in 4 Pa. Code § 1.805 (relating to role of General Counsel).

§ 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.

Subchapter BBB. LEASING OF STATE FOREST AND STATE PARK LAND FOR OIL AND GAS DEVELOPMENT

Sec.
1.811. Department of Conservation and Natural Resources oil and gas leasing.
1.812. Effective date.
1.813. Termination date.
1.814. Rescission.

Source
The provisions of this Subchapter BBB adopted by Executive Order No. 2015-03, dated January 29, 2015, 45 Pa.B. 766, unless otherwise noted.

§ 1.811. Department of Conservation and Natural Resources oil and gas leasing.
As of January 29, 2015, to protect the lands of this Commonwealth that are held in trust for its citizens and for future generations, and subject to future advice and recommendations made by the Department of Conservation and Natural Resources (Department), no State Park and State Forest lands owned or managed, or both, by the Department shall be leased for oil and gas development.

§ 1.812. Effective date.
This subchapter is effective immediately.

§ 1.813. Termination date.
This subchapter shall remain in effect until amended or rescinded by the Governor.

§ 1.814. Rescission.
Effective immediately, Executive Order 2014-03 is rescinded.

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Subchapter CCC. GOVERNOR’S OFFICE OF TRANSFORMATION, INNOVATION, MANAGEMENT AND EFFICIENCY

Sec.
1.822. Governor’s Office of Transformation, Innovation, Management and Efficiency.
1.823. Powers and duties.
1.824. Cooperation by Commonwealth agencies.
1.825. Effective date.
1.826. Rescission.

Source
The provisions of this Subchapter CCC adopted by Executive Order No. 2015-04, dated February 5, 2015, 45 Pa.B. 1062, unless otherwise noted.

§ 1.821. Mission.
The mission of the Governor’s Office of Transformation, Innovation, Management and Efficiency is to:
(1) Deliver cost savings to the citizens of this Commonwealth through multiagency efficiencies, productivity improvements and cost-saving innovations.
(2) Remain fully and continuously engaged with agencies to identify new project needs and opportunities.
(3) Promote and foster a culture of innovation, open data and collaboration across agencies in alignment with the Governor’s priorities.
(4) Identify partnering opportunities with nonprofit organizations and local communities to leverage resources that will save taxpayer dollars.
(5) Focus on citizen engagement to further improve user oriented services and realize cost-efficiencies through use of modern platforms.
(6) Increase the involvement and participation of State employees at all levels in improving management, reducing waste and improving the delivery of State services.

§ 1.822. Governor’s Office of Transformation, Innovation, Management and Efficiency.
(a) The Governor’s Office of Transformation, Innovation, Management and Efficiency (Office) is created within the Governor’s Office of Performance Through Excellence (OPE). The Director of the Office shall report to the Director of the OPE. The Governor’s Office will provide all support services and staff for the Office.
(b) The Office shall be directed by a Steering Committee (Committee) comprised of the following members:
(1) The Secretary of Administration.
(2) The Director of the Office.
(3) The Secretary of Policy and Planning.
(4) The Secretary of General Services.
(5) The Secretary of the Budget.
(6) The Director of the OPE.
(c) The Governor may appoint, to serve at his pleasure, individuals as he might deem appropriate to provide advice to the Office and the Committee.
(d) The Office shall be managed by a Director appointed by the Director of the OPE.
(e) The Director of the OPE shall serve as Chair of the Committee. The Director of the Office shall serve as Secretary of the Committee.

Source
The provisions of this § 1.822 amended by Executive Order No. 2015-04 Amended, dated February 1, 2018, 48 Pa.B. 1089. Immediately preceding text appears at serial pages (376350) and (382385).

§ 1.823. Powers and duties.
The Steering Committee shall have the power and duty to:
(1) Work collaboratively with the heads of Commonwealth agencies to identify opportunities for streamlining the operation of government and generating new efficiencies.
(2) Develop and implement strategies for implementing these opportunities.
(3) Identify barriers to the implementation of transformational efforts and recommend strategies for addressing these barriers.
(4) Exercise other powers and duties that the Governor may delegate as permitted by law.

§ 1.824. Cooperation by Commonwealth agencies.
Commonwealth agencies shall cooperate with the Governor’s Office of Transformation, Innovation, Management and Efficiency (Office) to ensure the success of its mission. Agency heads shall identify key staff to form innovation teams, which shall be responsible for implementing the initiatives identified by the Office. Innovation teams shall recommend to the Office new opportunities to reduce costs and improve efficiency.

§ 1.825. Effective date.
This amendment to this subchapter takes effect immediately.

Source
The provisions of this § 1.825 amended by Executive Order No. 2015-04 Amended, dated February 1, 2018, 48 Pa.B. 1089. Immediately preceding text appears at serial page (382385).

§ 1.826. Rescission.
Executive Order 2012-04, dated March 22, 2012, is rescinded effective immediately.

Subchapter DDD. ADVISORY COUNCIL ON DIVERSITY, INCLUSION AND SMALL BUSINESS OPPORTUNITIES
The provisions of this Subchapter DDD adopted by Executive Order No. 2015-11, dated September 23, 2015, 45 Pa.B. 6670, unless otherwise noted.

Cross References
This subchapter cited in 4 Pa. Code § 58.301 (relating to policy).

§ 1.831. Advisory Council on Diversity, Inclusion and Small Business Opportunities.
(a) The Advisory Council on Diversity, Inclusion and Small Business Opportunities (Advisory Council) is established to advise the Governor’s Office and executive agencies under the Governor’s jurisdiction on ways to improve State contracting and grant opportunities, job creation initiatives, financing and bonding programs, and business assistance and professional development programs.
(b) The Advisory Council shall be co-chaired by the Secretary of the Department of General Services, the Secretary of the Department of Community and Economic Development, the Secretary of the Department of Transportation and the Secretary of the Department of Labor and Industry, or their designated deputy secretaries. Additional members shall be comprised of small business owners, minority business owners, women business owners, veteran business owners, Commonwealth agency staff and other key stakeholders as identified by the co-chairs and the Governor’s Office.
(c) Beginning no later than September 30, 2015, the Advisory Council shall meet quarterly to provide input and feedback on:
   (1) Success metrics and Statewide-participation goals.
   (2) Program guidelines, policies and procedures.
   (3) Proposed revisions to statements of policy or regulatory packages, or both.
   (4) Other Commonwealth-issued programmatic materials regarding the goal of increasing diversity, inclusion and small business opportunities in Commonwealth procurement contracts and in the larger economy in this Commonwealth.

§ 1.832. Responsibilities.
(a) The Department of General Services (DGS) shall:
   (1) Co-chair and provide staffing support to the Advisory Council on Diversity, Inclusion and Small Business Opportunities (Advisory Council).
   (2) Rename its Bureau of Small Business Opportunities as the Bureau of Diversity, Inclusion and Small Business Opportunities (Bureau).
   (3) Expand the Bureau’s focus in terms of training and outreach, including the establishment of a Mentor-Protégé Program to support capacity building and sustainability among participating businesses and organizations.
(4) Expand the Bureau’s programs into new segments of State contracting and revisit existing segments to ensure maximum diversity, inclusion and small business opportunities in all State contracting opportunities.

(5) Implement meaningful performance-based metrics and regular reporting intervals to measure the value and success of all diversity programs. Compliance and inclusion, training and education, and financial and business assistance delivered shall be measured, at minimum, annually.

(6) Work collaboratively with the Advisory Council in establishing a State-wide goal to increase diverse business participation in State contracting opportunities.

(b) The Department of Community and Economic Development (DCED) shall:

(1) Co-chair the Advisory Council.

(2) Ensure that eligible businesses are provided with information and training as applicable for loan and grant solicitations, capital assistance programs and other business assistance programs provided by DCED.

(3) Give consideration, when possible, to businesses’ diversity status in the selection and award of grants and other financial assistance opportunities to the extent permitted by the United States Constitution, the Pennsylvania Constitution, and other State and Federal laws.

(c) The Department of Transportation (DOT) shall:
§ 1.833. Cooperation by Commonwealth agencies.
Agency heads and all Commonwealth agencies under the Governor’s jurisdiction shall work cooperatively with the Department of General Services, the Department of Community and Economic Development, the Department of Transportation, the Department of Labor and Industry and the Advisory Council on Diversity, Inclusion and Small Business Opportunities (Advisory Council) to ensure the success of the Advisory Council’s mission. Independent agencies, State-affiliated entities and State-related institutions are also strongly encouraged to work with the departmental co-chairs and the Advisory Council to adopt similar initiatives to support greater diversity, inclusion and small business opportunities in Commonwealth contracting.

§ 1.834. Effective date.
This subchapter takes effect immediately and remains in effect until amended or rescinded by the Governor.
Subchapter EEE. MINIMUM WAGE FOR EMPLOYEES OF THE COMMONWEALTH AND OF ORGANIZATIONS RECEIVING STATE CONTRACTS

§ 1.841. Minimum wage.

All employees covered by this subchapter, other than tipped employees, shall be paid no less than:

1. $12.00 per hour after the effective date of this subchapter.
2. Beginning July 1, 2019, and annually thereafter, the minimum wage will be increased by $0.50 until July 1, 2024, when the minimum wage reaches $15.00. Thereafter, the minimum wage rate would be increased by an annual cost-of-living adjustment using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for Pennsylvania, New Jersey, Delaware and Maryland. The applicable amount will be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.

§ 1.842. Coverage.

For the purpose of this subchapter, “employee” is defined as in section 3 of The Minimum Wage Act of 1968 (43 P.S. § 333.103). Employees exempt from the minimum wage under The Minimum Wage Act of 1968 (43 P.S. §§ 333.101—333.115) are not covered by this subchapter. The employees covered by this subchapter are:

1. Employees of Commonwealth agencies under the jurisdiction of the Governor.
2. Employees who meet any of the following, when the service, construction or ancillary service is called for in a new lease of property or contract for services or construction exceeding the applicable small purchase threshold entered into with a Commonwealth agency under the jurisdiction of the Governor, or bilateral modifications to existing leases or contracts, entered into after the effective date of this subchapter:
   (i) Directly perform services or construction.
   (ii) Directly perform services for the Commonwealth and are employed by a lessor of property to the Commonwealth.
   (iii) Spend at least 20% of their working time in a given work week performing an ancillary service.

Cross References

This section cited in 4 Pa. Code § 1.846 (relating to effective dates).
§ 1.843. Implementation.
All Commonwealth agencies under the jurisdiction of the Governor shall take all steps necessary to implement this subchapter. Independent agencies, State-affiliated entities and State-related institutions are also strongly encouraged to implement this subchapter.

§ 1.844. Sanctions.
Failure of a covered contractor or lessor to comply with this subchapter may result in the imposition of sanctions, which may include, but are not limited to, termination of the contract or lease, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.

§ 1.845. Application.
(a) Nothing in this subchapter shall be construed to contravene or supersede:
   (1) Any State or Federal law or collective bargaining agreement.
   (2) Any State or local policy requiring a covered employee to be paid more than the minimum wage required by this subchapter.
(b) This chapter is not applicable when the provisions may jeopardize the receipt of Federal funds.
(c) 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 person.

§ 1.846. Effective dates.
This subchapter shall take effect on the following dates and shall remain in effect until modified or rescinded:
   (1) For employees described in § 1.842(1) (relating to coverage), July 1, 2018.
   (2) For employees described in § 1.842(2), on the effective date of the applicable contract or lease solicited or bilaterally modified on or after July 1, 2018.

Cross References
This provisions of this § 1.846 amended by Executive Order No. 2016-02 Amended, dated June 18, 2018, 48 Pa.B. 4211. Immediately preceding text appears at serial page (380265).

Subchapter FFF. EMPLOYMENT FIRST POLICY AND COMPETITIVE INTEGRATED EMPLOYMENT FOR PENNSYLVANIANS WITH A DISABILITY

Sec.
1.851. Policy.
1.852. Definitions.
1.853. Reduction of barriers.
1.854. Written plan; goals.
1.855. General provisions.
1.856. Effective date.
1.857. Termination date.

Source
The provisions of this Subchapter FFF adopted by Executive Order No. 2016-03, dated March 10, 2016, 46 Pa.B. 1891, unless otherwise noted.
§ 1.851. Policy.
Employment First is the policy of Commonwealth executive branch agencies under the jurisdiction of the Governor. This policy reflects the Commonwealth’s goal of making the Commonwealth a model state when it comes to creating a climate hospitable to workers with a disability.

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

Competitive integrated employment—The term as defined in the Workforce Innovation and Opportunity Act (Pub.L. No. 113-128), which is work performed on a full or part-time basis, including self-employment, for which a person is:

(i) Compensated at not less than Federal minimum wage requirements or State or local minimum wage law, whichever is higher, and not less than the customary rate paid by the employer for the same or similar work performed by people without a disability.

(ii) At a location where the employee interacts with people without a disability, not including supervisory personnel or people who are providing services to the employee.

(iii) Presented, as appropriate, opportunities for similar benefits and advancement like those for other employees without a disability and who have similar positions.

Employment First—Competitive integrated employment is the first consideration and preferred outcome of publicly-funded education, training, employment and related services, and long-term supports and services for working-age Pennsylvanians with a disability, as “disability” is defined in each agency’s governing statutes and rules.

§ 1.853. Reduction of barriers.
The Office of Administration will explore the means to reduce barriers to Commonwealth employment for Pennsylvanians with a disability.

§ 1.854. Written plan; goals.
(a) The Secretary of the Department of Education, the Secretary of the Department of Human Services and the Secretary of the Department of Labor and Industry, working with other Commonwealth agencies or executive office officials as appropriate, will develop a written plan to address the implementation of the following goals:

(1) Implement Employment First as the policy of Commonwealth executive branch agencies.

(2) Align funding, policy, data collection and practice toward an emphasis on competitive integrated employment rather than noncompetitive, nonintegrated employment.

(3) Increase the number of Pennsylvanians with a disability employed in a competitive integrated job.

(b) Progress toward meeting the goals in subsection (a) is to be measured by gathering and evaluating, as permissible by law and as available:
(1) The labor participation rate and unemployment rate of Pennsylvanians with a disability.

(2) The number and percentage of Pennsylvania youth with a disability who successfully complete at least one paid community integrated work experience or community integrated work-based learning experience before exiting secondary education.

(3) The number and percentage of Pennsylvania youth with a disability who transition from secondary education to adult life with a competitive integrated job or an integrated post-secondary education or training opportunity intended to lead to a competitive integrated job.

(4) The number and percentage of Pennsylvanians with a disability employed in a competitive integrated job who are participants in a Medicaid-funded or State-only funded program that provides home and community-based services.

(5) The number of private-sector businesses that have been provided requested technical assistance with the recruitment, hiring and retention of qualified Pennsylvanians with a disability.

(c) The written plan will be developed with broad stakeholder input including people with a disability, the Governor’s Advisory Committee for People with Disabilities, potential employers and disability advocacy groups.

(d) The written plan should be submitted to the Governor’s Office for review and approval 120 days from the effective date of this subchapter.

§ 1.855. General provisions.

Nothing in this subchapter shall be interpreted to supersede or pre-empt any Federal, State or local law, regulation, rule or ordinance. 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 person.

§ 1.856. Effective date.

This subchapter becomes effective immediately.

§ 1.857. Termination date.

This subchapter shall remain in effect until amended or rescinded by the Governor.
§ 1.861. Prohibition of discrimination and affirmation of equal employment opportunity.

(a) An agency under the Governor’s jurisdiction may not discriminate against any employee or applicant for employment on the basis of race, color, religious creed, ancestry, union membership, age, gender, sexual orientation, gender identity or expression, national origin, AIDS or HIV status, or disability.

(b) Each agency under the Governor’s jurisdiction shall ensure fair and equal employment opportunities exist at every level of government.

(c) Sexual harassment or harassment based on any of the factors in subsection (a) is prohibited.

Cross References
This section cited in 4 Pa. Code § 1.863 (relating to responsibility for implementing equal employment opportunity).

§ 1.862. Definitions.

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

Gender identity or expression—The gender-related identity, appearance, mannerisms, expression or other gender-related characteristics of an individual regardless of the individual’s designated sex at birth.

Sexual orientation—Heterosexuality, homosexuality or bisexuality.

§ 1.863. Responsibility for implementing equal employment opportunity.

(a) The Secretary of Administration shall supervise the development, implementation and enforcement of the Commonwealth’s equal employment opportunity programs through the Bureau of Workforce Planning, Development and Equal Employment Opportunity, which shall in turn:

(1) Develop and promote steps designed to ensure a diverse workforce, equal employment opportunity and fair treatment of the protected classes in § 1.861(a) (relating to prohibition of discrimination and affirmation of equal employment opportunity) at all levels of state government.

(2) Develop Commonwealth-wide equal employment opportunity policies, procedures and training to ensure consistency and uniformity.

(3) Conduct or participate in periodic onsite reviews and audits of agency equal employment opportunity programs.

(4) Develop complaint investigation and resolution procedures for implementation by agencies under the Governor’s jurisdiction.

(5) Review complaint investigation reports at any stage of the complaint process.

(6) Develop and implement a standardized equal employment opportunity procedure to monitor personnel transactions in Commonwealth agencies under the Governor’s jurisdiction.

(7) Develop and issue guidelines for the conduct of agency equal employment opportunity programs and the review of equal employment opportunity plans prior to implementation.
(8) Design and implement monitoring and reporting systems to measure the effectiveness of agency equal employment opportunity programs.

(9) Consult with agency officials regarding personnel actions implicating equal employment opportunity, including recruitment, hiring, promotion, demotion, separation, transfer, performance standards and evaluation, and rate of pay.

(10) Provide leadership to agencies in the design and implementation of innovative equal employment opportunity strategies that will further the Commonwealth’s commitment to equal employment opportunity.

(11) Examine in particular whether employees or applicants for employment experience workplace challenges due to sexual orientation and/or gender identity or expression and identify ways to minimize any the challenges.

(12) Evaluate the Commonwealth’s hiring and job retention practices to ensure compliance with this subchapter.

(13) Coordinate, as needed, with the Bureau of Diversity, Inclusion and Small Business Opportunities within the Department of General Services to ascertain how equal employment opportunity best practices can promote diversity, inclusion and fairness in Commonwealth contracting.

(b) Heads of departments and agencies under the Governor’s jurisdiction shall:

(1) Designate an Equal Opportunity Officer with the primary responsibility of developing and implementing the agency’s equal employment opportunity program.

(2) Ensure that the agency Equal Opportunity Officer reports directly to the individual who has overall responsibility for the agency’s equal employment opportunity program.

(3) Ensure that the agency’s commitment to equal employment opportunity is clearly transmitted to agency employees and that bureau directors and managers provide adequate support to the Equal Opportunity Manager or Specialist in the development and implementation of program plans designed to achieve the agency’s equal employment opportunity objectives.

(4) Seek input from the Director of the Bureau of Workforce Planning, Development and Equal Employment Opportunity on personnel actions affecting equal employment opportunity professional staff.

(5) Ensure that the agency develops and implements effective equal employment opportunity plans in addition to auditing and reporting mechanisms.

(6) Ensure that agency supervisory and management employees are rated on equal employment opportunity, diversity and inclusiveness based in part upon criteria identified in the agency’s equal employment opportunity plan.

§ 1.864. Cooperation by Commonwealth agencies.

Agency heads and agencies, boards and commissions under the Governor’s jurisdiction shall work cooperatively with the Governor’s Office of Administration and its Bureau of Workforce Planning, Development and Equal Employment Opportunity to fulfill the demands of this subchapter. Independent agencies, State-affiliated entities and State-related agencies are strongly encouraged to join with the Governor’s Office of Administration to adopt, refine and implement
similar practices and procedures to support greater diversity, inclusion and fairness in employment opportunities within their workforce.

§ 1.865. General provisions.
Nothing in this subchapter shall be construed to impair or otherwise affect the authority granted by law to an executive department, agency or the head thereof. 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 person.

§ 1.866. Rescission.
Executive Order 2003-10, Equal Employment Opportunity, is rescinded.

§ 1.867. Effective date.
This subchapter takes effect immediately.

Subchapter HHH. CONTRACT COMPLIANCE PROGRAM

Sec.
1.871. Establishment of contract compliance program.
1.872. Definitions.
1.873. Responsibilities.
1.874. Cooperation by Commonwealth agencies.
1.875. General provisions.
1.876. Rescission.
1.877. Effective date.

Source
The provisions of this Subchapter HHH adopted by Executive Order No. 2016-05, dated April 7, 2016, 46 Pa.B. 2027, unless otherwise noted.

§ 1.871. Establishment of contract compliance program.
Commonwealth agencies shall establish, implement and maintain contract compliance programs to ensure that Commonwealth contracts and grants are nondiscriminatory in three aspects:

(1) Nondiscrimination in the award of Commonwealth contracts and grants.

(2) Nondiscrimination by those who are awarded Commonwealth contracts and grants in the hiring and treatment of their employees and in the provision of services to their clients and service recipients.

(3) Nondiscrimination by those who are awarded Commonwealth contracts and grants in their award of subcontracts and supply contracts for performance under Commonwealth contracts.

Source
The provisions of this § 1.871 amended by Executive Order No. 2016-05 Amended, dated June 18, 2018, 48 Pa.B. 4208. Immediately preceding text appears at serial page (380270).
§ 1.872. Definitions.
The following words and phrases when used in this subchapter have, unless otherwise defined by Commonwealth State law or the context clearly indicates otherwise, or both, the following meanings given:

**Gender expression**—The external manifestations of gender, expressed through a person’s name, pronouns, clothing, haircut, behavior, voice and/or body characteristics.

**Gender identity**—A person’s internal, deeply held sense of their gender, regardless of their biological sex and/or the sex they were assigned at birth.

**Protected labor activities**—Labor activities protected under the Public Employe Relations Act (43 P.S. §§ 1101.101—1101.2301), Pennsylvania Labor Relations Act (43 P.S. §§ 211.1—211.13) or National Labor Relations Act (29 U.S.C.A. §§ 151—169), as applicable and to the extent determined by entities charged with these acts’ enforcement.

**Sexual orientation**—An individual’s enduring physical, romantic and/or emotional attraction to members of the same or opposite sex, including lesbian, gay, bisexual and heterosexual (straight) orientations, or lack thereof, including asexual orientation.

Source
The provisions of this § 1.872 amended by Executive Order No. 2016-05 Amended, dated June 18, 2018, 48 Pa.B. 4208. Immediately preceding text appears at serial page (380270).

§ 1.873. Responsibilities.
(a) The Department of General Services (Department) shall:

(1) Develop standards for a uniform Statewide contract compliance program that ensures nondiscrimination by Commonwealth contractors and grantees.

(2) Review agency contract compliance programs, plans, reports and procedures to ensure consistency with the Department contract compliance policies.

(3) Develop and implement monitoring and reporting systems to measure the effectiveness of agency contract compliance programs.

(4) Provide leadership and training to agencies and assist them in conducting contract compliance program audits such as periodic onsite reviews.

(5) Investigate and make reports relating to the administration of contracting programs and operations.

(6) Require contractors and grantees to agree, as a condition in their contracts or agreements with the Commonwealth, not to discriminate in the award of subcontracts or supply contracts or in hiring, promotion or other labor matters on the basis of race, gender, creed, color, sexual orientation, gender identity or expression, or participation or decision to refrain from participation in protected labor activities.

(7) Ensure that contractors and grantees receiving Commonwealth funds have, as a condition of payment or funding, a written sexual harassment policy and that employees of the contractor or grantee are aware of the policy.

(b) Agency heads under the Governor’s jurisdiction shall:
(1) Ensure that the agency’s commitment to the contract compliance program is clearly understood and appropriately furthered by all agency employees.

(2) Create contract compliance plans, coordinate the development of activities to implement agency plans, and develop audit and reporting systems to measure the effectiveness of the agency’s contract compliance programs.

(3) Designate a responsible official to supervise the agency’s contract compliance program.

(4) Designate a contract administrator to carry out all agency responsibilities regarding contract compliance as articulated in this subchapter.

(5) Upon request, furnish pertinent information or assistance to the Department.

(6) Recommend sanctions to the Secretary of General Services, as may be appropriate, for lack of compliance with Commonwealth contracting programs.

(c) For programs when an agency’s receipt and use of Federal funds are subject to approval and oversight by a Federal funding agency, agency heads under the Governor’s jurisdiction will comply with those contract compliance requirements imposed by that Federal agency as a condition of eligibility for the funds rather than program requirements established by the Department.

Source
The provisions of this § 1.873 amended by Executive Order No. 2016-05 Amended, dated June 18, 2018, 48 Pa.B. 4208. Immediately preceding text appears at serial page (389559).

§ 1.874. Cooperation by Commonwealth agencies.
Agency heads and agencies, boards and commissions under the Governor’s jurisdiction shall work cooperatively with the Department of General Services (Department) to fulfill the demands of this subchapter. Independent agencies, State-affiliated entities and State-related agencies are strongly encouraged to work with the Department to adopt, refine and implement similar procurement practices and procedures to support greater diversity, inclusion and fairness in the contracting process.

§ 1.875. General provisions.
Nothing in this subchapter shall be construed to impair or otherwise affect the authority granted by law to an executive department, agency or the head thereof. 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 person.

§ 1.876. Rescission.
Executive Order 2006-02, Contract Compliance, was rescinded April 6, 2016.

Source
The provisions of this § 1.876 amended by Executive Order No. 2016-05 Amended, dated June 18, 2018, 48 Pa.B. 4208. Immediately preceding text appears at serial page (389560).

§ 1.877. Effective date.
This amended subchapter takes effect immediately.
§ 1.881. Primary duties and responsibilities.

(a) Intergovernmental cooperation and coordination. The Office of Intergovernmental Affairs (Office) shall:

(1) Coordinate interactions between the Commonwealth and Federal, State, county and local governments to inform the work of the Governor regarding intergovernmental issues.

(2) Act as the liaison between the Governor’s regional offices, State agencies, county governments and local governments to improve coordination and interactions across all levels of government in this Commonwealth.

(3) Build new and maintain current relationships across county and local governments to better understand the opportunities within their communities and to better coordinate the engagement of intergovernmental assets.

(b) Public engagement and constituent services. The Office shall:

(1) Serve as the initial point of contact for constituents seeking information about State government to improve responses and service delivery.

(2) Respond to and report on questions and comments from the public that are submitted to the Governor’s office by electronic, written and telephonic communication.

(3) Develop and strengthen relationships with issue-advocacy organizations, nonprofits, and other associations across the spectrum to better respond to government service inquiries and requests for information.

(c) Public liaison services. The Office shall:

(1) Manage, coordinate and process the Governor’s appointments to boards and commissions throughout this Commonwealth.

(2) Perform the duties and responsibilities of the Governor’s Offices of Public Liaison, Constituent Services, and Government Affairs and Outreach, which are transferred to the Office.

(d) Other functions. The Office shall perform other functions as necessary to accomplish its duties.
§ 1.882. Secretary.
The Governor will appoint a Secretary of the Office of Intergovernmental Affairs (Office) who shall determine the staffing requirements of the Office in accordance with policies of the Office of Administration and the Office of the Budget.

§ 1.883. Other offices within the Office of the Governor replaced.
The Offices of Public Liaison, Constituent Services, and Government Affairs and Outreach within the Office of the Governor are replaced by the Office of Intergovernmental Affairs.

§ 1.884. General provisions.
This subchapter will 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 or agencies, or entities, its officers, employees or agents, or any other person.

§ 1.885. Effective date.
This subchapter takes effect immediately.

Subchapter JJJ. GOVERNOR’S OFFICE FOR PERFORMANCE THROUGH EXCELLENCE

Sec. 1.891. Mission.
1.892. Governor’s Office for Performance Through Excellence.
1.893. Powers and duties.
1.894. Cooperation by Commonwealth agencies.
1.895. Independent agencies, State-affiliated entities and State-related entities.
1.896. General provisions.
1.897. Effective date.

Source
The provisions of this Subchapter JJJ adopted by Executive Order No. 2018-01, dated February 1, 2018, 48 Pa.B. 1087, unless otherwise noted.

§ 1.891. Mission.
The mission of the Governor’s Office for Performance Through Excellence is to engage internal and external stakeholders, as well as employees at every level of government, to enhance State government operations by utilizing continuous process improvement methods and to achieve measurable results by identifying and tracking key performance indicators.

§ 1.892. Governor’s Office for Performance Through Excellence.
The Governor’s Office for Performance Through Excellence (Office) is created within the Executive Offices of the Governor.
(1) The Governor will appoint a member of his staff to serve as Director of the Office, who shall serve at the pleasure of the Governor.
(2) The Director of the Office shall report to the Governor.
(3) The Governor may appoint, to serve at his pleasure, individuals as he may deem appropriate to provide advice to the Office and the Director.

(4) The Governor’s Office of Transformation, Innovation, Management and Efficiency or GO TIME is removed from the Office of Administration, but will continue to work to modernize government operations to reduce costs and deliver better services under the Office.

§ 1.893. Powers and duties.
The Governor’s Office for Performance Through Excellence shall have the power and duty to:

(1) Develop and implement strategies for creating a Commonwealth workplace culture that is defined by continuous process improvement principles, including focus on customers, respect for employees and elimination of waste.

(2) Develop and implement strategies for monitoring, managing and accelerating progress toward the Commonwealth’s priority goals.

(3) Work with agencies, boards and commissions to identify opportunities to collaborate and partner with external entities to bring new ideas and best practices into State government.

(4) Promote cross-agency coordination and collaboration aimed at solving common problems and achieving shared goals.

(5) Build the capacity of Commonwealth agencies to independently implement strategies for continuous improvement, performance management and innovation.

(6) Provide regular reports to the Governor and the heads of Commonwealth agencies that describe the status of specific priority objectives, identify barriers to achieving the objectives and recommend specific actions for improving performance.

(7) Publish on the Commonwealth’s web site administration goals and progress.

(8) Work collaboratively with Commonwealth agencies to identify opportunities to leverage data and evidence for improving State government performance.

(9) Exercise all other necessary powers to ensure successful implementation of this subchapter, as permitted by law.

§ 1.894. Cooperation by Commonwealth agencies.
Agencies under the Governor’s jurisdiction shall provide assistance to and cooperate with the Governor’s Office for Performance Through Excellence (Office) as requested by the Office in pursuit of the matters which are the subject of this subchapter.

§ 1.895. Independent agencies, State-affiliated entities and State-related entities.
Independent agencies, State-affiliated entities and State-related agencies are strongly encouraged to work with the Governor’s Office for Performance Through Excellence and to implement continuous process improvements as envisioned by this subchapter.
§ 1.896. General provisions.
This subchapter shall be implemented consistent with applicable law. This sub-
chapter 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 Common-
wealth, its departments, agencies or entities, its officers, employees or agents, or
any other person.

§ 1.897. Effective date.
This subchapter takes effect immediately.

Subchapter KKK. EQUAL PAY FOR EMPLOYEES OF THE
COMMONWEALTH

Sec.
1.901. Hiring process.
1.902. Salary negotiation.
1.903. Compensation decisions.
1.904. Position postings.
1.905. Office of Administration.
1.906. Application.
1.907. Implementation.
1.908. Effective date.

Source
The provisions of this Subchapter KKK adopted by Executive Order 2018-03, dated June 6, 2018,
48 Pa.B. 3708, unless otherwise noted.

§ 1.901. Hiring process.
Commonwealth agencies under the Governor’s jurisdiction may not inquire
about a job applicant’s current compensation or compensation history at any stage
during the hiring process.

§ 1.902. Salary negotiation.
An applicant is not prevented from volunteering information about current
compensation level or salary history in negotiating a salary. However, no Com-
monwealth agency can request that an applicant disclose current salary or salary
history information. In addition, applicants can refuse to disclose current compen-
sation level or history, or both, without negative repercussions by the Common-
wealth agency in its employment decisions.

§ 1.903. Compensation decisions.
Commonwealth agency compensation decisions for positions will be governed
primarily by job responsibilities and the position’s range of compensation as well
as the applicant’s knowledge, skills, competencies, experience, compensation
requests or other bona fide factor other than sex, except when compensation is
based on:
(1) A collective bargaining agreement.
(2) A seniority system.
(3) A system of merit pay increases.
(4) A system which measures earnings by quantity or quality of produc-
tion, sales goals and incentives.
§ 1.904. Position postings.
All Commonwealth position postings will clearly disclose a job position’s pay scale and pay range. The Commonwealth will disclose on the employment website that the applicant is not required to furnish current compensation or prior compensation at any stage during the hiring process.

§ 1.905. Office of Administration.
The Office of Administration shall oversee implementation of this subchapter.

§ 1.906. Application.
(a) Nothing in this subchapter shall be construed to contravene or supersede the following:
   (1) Any State or Federal law or collective bargaining agreement.
   (2) Any policy establishing pay scales or ranges for classes of employment.
(b) 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 person.

§ 1.907. Implementation.
All Commonwealth agencies under the jurisdiction of the Governor shall take all steps necessary to implement this subchapter. Independent agencies, State-affiliated entities and State-related institutions are also strongly encouraged to implement this subchapter.

§ 1.908. Effective date.
This subchapter shall take effect in 90 days.