

**CHAPTER 481a. DIVERSITY**

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**Authority**

The provisions of this Chapter 481a issued under 4 Pa.C.S. §§ 1202(b)(30), 1212 and 1225(b) and (c), unless otherwise noted.

**Source**

The provisions of this Chapter 481a adopted June 15, 2007, effective June 16, 2007, 37 Pa.B. 2688, unless otherwise noted.

**Cross References**

This chapter cited in 58 Pa. Code § 427a.2 (relating to manufacturer license applications and standards); 58 Pa. Code § 429a.2 (relating to manufacturer designee license applications and standards); 58 Pa. Code § 431a.2 (relating to supplier license applications and standards); 58 Pa. Code § 441a.3 (relating to slot machine license application); 58 Pa. Code § 441a.7 (relating to licensing hearings for slot machine licenses); 58 Pa. Code § 441a.9 (relating to licensing hearings for slot machine licenses); 58 Pa. Code § 803.2 (relating to interactive gaming operator application and standards); 58 Pa. Code § 805.2 (relating to interactive gaming manufacturer license application and standards); 58 Pa. Code § 806.2 (relating to interactive gaming supplier application and standards); 58 Pa. Code § 1402.2 (relating to sports wagering operator application and standards); 58 Pa. Code § 1403.2 (relating to sports wagering manufacturer license application and standards); and 58 Pa. Code § 1404.2 (relating to sports wagering supplier application and standards).

**§ 481a.1. Statement of purpose, policy and applicability.**

(a) This chapter establishes the procedures for promoting and ensuring that regulated entities foster participation and diversity in all aspects of their operations in this Commonwealth.

(b) It is the policy of the Board to promote and ensure that regulated entities conduct all aspects of their operations in a manner that assures diversity of opportunity as follows:

- (1) In the ownership, participation and operation of regulated entities in this Commonwealth.
- (2) Through the ownership, participation and operation of business enterprises associated with or utilized by regulated entities.
- (3) Through the provision of goods and services utilized by regulated entities.

(c) It is further the policy of the Board to promote and ensure diversity in employment and contracting by each regulated entity and its contractors, subcontractors, assignees, lessees and agents.

**§ 481a.2. Definitions.**

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

*Diversity plan*—A plan that promotes and ensures diversity in ownership, participation and operation of regulated entities; and in employment and contracting by regulated entities.

*Minority*—The ethnic/racial categories identified in employer survey reports that are required by the United States Equal Opportunity Commission and the Office of Federal Contract Compliance Programs of the United States Department of Labor under section 709 of the Civil Rights Act of 1964 (42 U.S.C.A. § 2000e-8) or by subsequent amendments to that Federal act.

*Participation plan*—An obligation imposed by a regulated entity as part of its contract with a contractor that requires the contractor to utilize minority or women owned business enterprises.

*Regulated entity*—An applicant for or holder of the following:

- (i) Slot machine license.
- (ii) Manufacturer license.
- (iii) Supplier license.
- (iv) Gaming service provider certification.
- (v) Gaming junket enterprise license.
- (vi) Management company license.

**Authority**

The provisions of this § 481a.2 amended under 4 Pa.C.S. §§ 1103, 1202(b)(30), 1209(b), 1317(c), 1317.1(c), 1317.2 and 1326.

**Source**

The provisions of this § 481a.2 amended October 22, 2010, effective October 23, 2010, 40 Pa.B. 6083; amended May 13, 2011, effective May 14, 2011, 41 Pa.B. 2439. Immediately preceding text appears at serial pages (353469) to (353470).

**§ 481a.3. Diversity participation.**

(a) The list of the minority and women's business enterprises that are verified by the Bureau of Small Business Opportunities of the Department of General Services under 62 Pa.C.S. Part I (relating to Commonwealth Procurement Code) may be used by a regulated entity to establish the eligibility of an enterprise as a minority or women's business enterprise for the purpose of promoting and ensuring minority and women's business participation.

(b) It is the responsibility of the regulated entity to verify that a minority or women's business enterprise that is not verified by the Bureau of Small Business Opportunities of the Department of General Services is a minority or women's business enterprise as defined in 4 Pa. Code § 58.302 (relating to definitions).

**Authority**

The provisions of this § 481a.3 amended under 4 Pa.C.S. §§ 1202(b)(15) and (30), 1207(2), (5), (8) and (9), 1212, 13A02(2), 13A26(c), 1509, 1516, 1518(a)(13) and 1602.

**Source**

The provisions of this § 481a.3 amended November 7, 2014, effective November 8, 2014, 44 Pa.B. 7057. Immediately preceding text appears at serial pages (357099) to (357100).

**§ 481a.4. Establishment of diversity plan required.**

(a) Each regulated entity shall include in its application for licensure or certification a diversity plan that establishes a separate goal of diversity in the ownership, participation and operation of, and employment at the regulated entity. The Board will determine whether the stated goals set forth in each diversity plan

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are reasonable and represent a good faith effort to assure that all persons are accorded equality of opportunity in contracting and employment by the regulated entity and its contractors, subcontractors, assignees, lessees and agents.

(b) A regulated entity may demonstrate achievement of its diversity goals through one or both of the following:

- (1) Contracting or transacting directly with minority and women's business enterprises.
- (2) Contracting with a nonminority business enterprise under terms and conditions that establish a participation plan.

**§ 481a.5. Report of participation.**

(a) As part of an application to renew a license or certification, a regulated entity shall file a report with the Board concerning the performance of its diversity plan. The report must contain the following:

- (1) Employment data, including information on the following:
  - (i) Minority and women representation in the regulated entity's workforce in all job classifications.
  - (ii) Salary information.
  - (iii) Recruitment and training information, including executive and managerial level recruitment and training.
  - (iv) Retention and outreach efforts.
- (2) The total number and value of all contracts or transactions awarded by the regulated entity for goods and services.
- (3) The total number and value of all contracts or transactions awarded by the regulated entity to minority and women's business enterprises.
- (4) A list of each contract or transaction awarded by the regulated entity to a minority or women's business enterprise and the actual value of each contract or transaction.
- (5) The total number and value of all contracts awarded that contain a participation plan.
- (6) The total number and value of all subcontracts awarded to minority and women's business enterprises under contracts containing a participation plan.
- (7) A list of each subcontract awarded to a minority or women's business enterprise under contracts containing a participation plan and the actual value of each subcontract.
- (8) A comprehensive description of all efforts made by the regulated entity to monitor and enforce the participation plan.
- (9) Information on minority and women investment, equity ownership, and other ownership or management opportunities initiated or promoted by the regulated entity.
- (10) Other information requested in writing by the Board to ensure compliance with the act and this part.

(b) In addition to the reports required under subsection (a), slot machine licensees, manufacturer licensees and supplier licensees shall file updated versions of the reports required under subsection (a) quarterly.

(c) A licensed management company may file a consolidated report with the slot machine licensee with whom the management company has a management contract.

(d) A regulated entity may request that proprietary information required to be submitted to the Board under this section be treated as confidential information. A regulated entity shall clearly mark information that it requests to be treated as confidential information.

(e) The Board will use the reports required under subsections (a), (b) and (c) to monitor compliance with the act and this part. The Board may request the assistance of the Bureau of Minority and Women's Business Enterprises, of the Department of General Services, in the review of regulated entities' compliance with the requirements of the act and this part.

#### **§ 481a.6. Diversity reviews.**

(a) Onsite diversity reviews may be performed on an annual basis or at the discretion of Board staff to ensure compliance with this chapter.

(b) Advanced written notice will be provided to a regulated entity prior to the conduct of an onsite diversity review by Board staff.

#### **Authority**

The provisions of this § 481a.6 amended under the Pennsylvania Race Horse Development and Gaming Act, 4 Pa.C.S. §§ 1202(b)(15) and (30), 1207(2), (5), (8) and (9), 1212, 13A02(2), 13A26(c), 1509, 1516, 1518(a)(13) and 1602.

#### **Source**

The provisions of this § 481a.6 amended November 7, 2014, effective November 8, 2014, 44 Pa.B. 7057. Immediately preceding text appears at serial page (328488).

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