

THE GOVERNOR

Title 4—ADMINISTRATION

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 1]

[EXECUTIVE ORDER 1996-8]

Minority and Women Business Enterprise and Contract Compliance Programs

December 20, 1996

Whereas, this Administration is firmly committed to promoting the prosperity and economic growth of all businesses in the Commonwealth of Pennsylvania; and

Whereas, the formation and development of women and minority-owned businesses in the Commonwealth plays a substantial role in creating jobs and stimulating economic growth throughout all regions of the Commonwealth; and

Whereas, this Administration believes the contracting processes of the Commonwealth should be nondiscriminatory in intent and effect and afford opportunities to all businesses to participate in Commonwealth business.

Now, Therefore, I, Thomas J. Ridge, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby designate the Department of General Services, Bureau of Contract Administration and Business Development (hereinafter referred to as "the Bureau"), to perform the functions specified in this order. The responsibilities previously assigned to the Office of Minority and Women Business Enterprise in the Department of General Services and the contract compliance responsibilities previously assigned to the Office of Administration, Bureau of Affirmative Action/Contract Compliance are hereby transferred to the Bureau of Contract Administration and Business Development.

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TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 1. AGENCY OPERATION AND ORGANIZATION

Subchapter LL. MINORITY AND WOMEN BUSINESS ENTERPRISE

§ 1.451. Purpose.

The purpose of the Department of General Services, Bureau of Contract Administration and Business Department (Bureau) is to:

(1) Assist and encourage women and minority-owned businesses to participate in government business. Minority businesses are those owned by African Americans, Hispanic Americans, Native Americans, Asian Americans, Alaskans and Pacific Islanders.

(2) Generate awareness and encourage State agencies to support the participation of women and minority-owned businesses in State contracting.

(3) Monitor levels of participation of women and minority-owned businesses in State contracting.

(4) Administer and enforce the Commonwealth contract compliance requirements.

§ 1.452. Duties of the Bureau.

Duties of the Bureau, under the direction of the Secretary of the Department of General Services, shall include and the Bureau is directed to:

- (1) Develop an appropriate and credible program for the certification of women and minority business enterprises.
- (2) Establish guidelines for determining when a business has achieved success to such a degree that the benefits of a State sponsored program are no longer necessary and the period of time after which they should be removed, whether or not they have graduated from the program.
- (3) Provide technical assistance and outreach to women and minority-owned businesses to increase their opportunities to compete successfully in the State procurement system.
- (4) Develop, maintain and make available a list of certified women and minority-owned businesses for use by agencies under the Governor's jurisdiction, as well as by firms doing business with the Commonwealth.
- (5) Monitor awards and prepare statistical reports delineating the performance of the Commonwealth relative to participation of women and minority-owned businesses in State contracting.
- (6) Assist the Department of General Services' Legislative Liaison in the analysis and development of legislation and key initiatives that affect women and minority business development.
- (7) Develop standards for a Statewide contract compliance program for approval of the Secretary of General Services.
- (8) Review agency contract compliance programs, plans, reports and procedures to ensure consistency with the Commonwealth's contract compliance policies.
- (9) Develop and implement monitoring and reporting systems to measure the effectiveness of agency contract compliance programs.
- (10) Evaluate agency contract procedures to ensure equal opportunity.
- (11) Provide leadership to agencies and assist them in conducting formal and informal contract compliance program audits including periodic onsite reviews.
- (12) Investigate and make reports relating to the administration of contracting programs and operations.
- (13) Ensure that contractors and grantees receiving Commonwealth funds have, as a condition of funding, a written sexual harassment policy and that the employees of the contractor or grantee are aware of the policy.

§ 1.453. Responsibility of agencies under the Governor's jurisdiction.

Heads of departments and agencies under the jurisdiction of the Governor shall:

- (1) Ensure that the agency's commitment to the women and minority business enterprise program and the contract compliance program is clearly understood and appropriately implemented by agency employees.
- (2) In consultation with the Bureau, develop women and minority business enterprise and 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 women and minority business enterprise and contract compliance programs.
- (3) Designate a responsible official to supervise the agency minority and women business enterprise program and the contract compliance program.
- (4) Designate a contract administrator to carry out agency responsibilities regarding women and minority business enterprise and contract compliance as issued under this subchapter.
- (5) Furnish the Bureau information or assistance, upon request.

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

§ 1.454. Sanctions.

(a) Failure to comply with the Commonwealth's women and minority business enterprise and contract compliance programs may result in the imposition of sanctions approved by the Governor or Secretary of the Department of General Services.

(b) For contractors or grantees receiving Commonwealth funds, sanctions may include termination of the contract, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.

§ 1.455. Rescission.

Executive Order 1987-18, Minority and Women Business Enterprise, is rescinded.

§§ 1.456—1.459. (Reserved).



Governor

Fiscal Note: GOV 97-6. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 97-293. Filed for public inspection February 28, 1997, 9:00 a.m.]

[4 PA. CODE CH. 7]

[EXECUTIVE ORDER NO. 1996-13]

Policy on Substance Abuse in the Workplace

December 20, 1996

Whereas, illegal or inappropriate use of alcohol and other controlled substances by Commonwealth employees impairs the efficiency and effectiveness of the workforce, compromises public health and safety, and undermines attainment of the missions of government agencies, thereby increasing the operating costs of State government; and

Whereas, the Commonwealth is concerned with the well-being of its employees and the general public, attainment of agency missions, maintenance of employe productivity, and safe work environments; and

Whereas, as the State's largest employer, the Commonwealth should promote a model workplace substance abuse policy to foster the development of drug-free workplaces and encourage creation and use of employe assistance programs.

Now, Therefore, I, Thomas J. Ridge, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby establish the following policies:

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PART I. GOVERNOR'S OFFICE

CHAPTER 7. MISCELLANEOUS PROVISIONS

**Subchapter GG. POLICY ON SUBSTANCE ABUSE IN THE
WORKPLACE**

§ 7.451. Prohibited acts.

The unlawful manufacture, distribution, dispensation, possession or use of alcohol and other controlled substances by a State employe, either while on

duty or in any Commonwealth workplace, is prohibited. This conduct shall subject the employe to appropriate disciplinary action.

§ 7.452. Disciplinary action.

An employe determined to be unfit either while on duty, or in a Commonwealth workplace, as a result of alcohol or other controlled substances shall be subject to appropriate disciplinary action.

§ 7.453. Notification of conviction.

An employe who is convicted of violating a statute governing the unlawful manufacture, distribution, dispensation, possession or use of alcohol or other controlled substances in a Commonwealth workplace shall notify his supervisor of the conviction, in writing, no later than 5 days after the conviction. A conviction means a finding of guilt (including a plea of nolo contendere, disposition in lieu of trial, probation without verdict or accelerated rehabilitative disposition) or imposition of sentence, or both, by any judicial body charged with responsibility to determine violations of the Federal or State criminal drug statutes.

§ 7.454. Rehabilitation program.

An employe convicted of drug abuse violations occurring in the workplace shall satisfactorily participate in the State Employee Assistance Program or other rehabilitation program approved for those purposes by a Federal, State, or local health, law enforcement, or other appropriate agency. Any employe convicted of drug abuse violations occurring in the workplace who refuses to participate in the State Employee Assistance Program shall be subject to appropriate disciplinary action.

§ 7.455. Self disclosure.

An employe who has self disclosed a problem with alcohol or other drugs shall be advised to contact the State Employee Assistance Program for assistance.

§ 7.456. Education and training programs.

Education and training about the inappropriate use of alcohol and other controlled substances are important components of this policy. The Office of Administration shall provide for and initiate these education and training programs in State agencies. Education and training programs shall be consistent with this subchapter, Management Directives 505.22, State Employee Assistance Program and 505.25, Substance Abuse in the Workplace and Subchapter K (relating to code of conduct for appointed officials and State employes).

§ 7.457. Dissemination of information.

The Office of Administration is responsible for assuring that the Commonwealth's Policy on Substance Abuse in the Workplace and information about the State Employee Assistance Program are furnished to all employes.

§ 7.458. Office of Administration duties.

The Office of Administration shall:

- (1) Monitor and review the implementation of this policy and assure compliance with State and Federal statutes and regulations.
- (2) Coordinate the implementation and revision of this subchapter with representatives of State labor organizations.

§ 7.456. Rescission.

Executive Order 1989-6, Commonwealth of Pennsylvania's Policy on Substance Abuse in the Workplace, is rescinded.

§ 7.457. (Reserved).



Governor

Fiscal Note: GOV 97-5. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 97-294. Filed for public inspection February 28, 1997, 9:00 a.m.]

[4 PA. CODE CH. 1]
[EXECUTIVE ORDER 1996-10]
State Employee Assistance Program

December 20, 1996

Whereas, the Commonwealth is committed to maintaining an efficient and productive workforce to serve the citizens of Pennsylvania; and

Whereas, the Commonwealth, as an employer, is therefore concerned with the well-being and job performance of its employees; and

Whereas, abuse of alcohol or other controlled drugs and emotional, family, financial, marital, or personal problems can adversely affect the employee's personal life, reduce the quality and productivity of job performance, and contribute significantly to escalating health care costs; and

Whereas, workplace trauma such as serious injuries, sudden deaths, and violence can adversely affect the emotional well-being of employees and the productivity of the workforce; and

Whereas, employees addicted to alcohol or other controlled drugs suffer from a treatable illness and should receive consideration equal to anyone else with a health problem; and

Whereas, personal or other problems which are adequately evaluated and treated can restore the employee to acceptable levels of job performance and behavior; and

Whereas, cooperative intervention of management, unions, and employees can be effective in addressing employee problems which adversely affect the employee's personal life or job performance; and

Whereas, supervisors, employees, and union representatives need assistance in how to effectively intervene with a troubled employee and encourage the use of confidential services; and

Whereas, employee assistance programs have proven to be effective in the private and public sectors by providing the employee and employer with the necessary assistance to resolve problems which are detrimental to employee lives and job security.

Now, Therefore, I, Thomas J. Ridge, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby authorize the continuation of the State Employee Assistance Program.

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TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

**CHAPTER 1. AGENCY OPERATION
AND ORGANIZATION**

**Subchapter DD. STATE EMPLOYEE
ASSISTANCE PROGRAM**

§ 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 employee'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 Employee Assistance Program, other Commonwealth programs and health care coverage.

§ 1.353. Rescission.

Executive Order 1991-6, State Employee Assistance Program, is rescinded.



Governor

Fiscal Note: GOV 97-4. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 97-295. Filed for public inspection February 28, 1997, 9:00 a.m.]

Amendment to Proclamation

February 7, 1997

Whereas, on November 12, 1996, I declared a State of Disaster Emergency in Tioga County due to widespread and unusually heavy rains which struck the County and caused extensive damage to roads, streets, bridges, private homes and posed other adverse life safety impacts upon the general population of that County; and

Whereas, the Proclamation authorized the Adjutant General of Pennsylvania to place on state active duty such individuals and units of the Pennsylvania National Guard, as requested by the Pennsylvania Emergency Management Agency, to alleviate the danger to public health and safety caused by the aforementioned emergency; and

Whereas, the Adjutant General of Pennsylvania and the Pennsylvania Emergency Management Agency have determined that there is a continuing need to use units of the Pennsylvania National Guard to perform public works and other public health and safety projects in Tioga County in order to alleviate the risk of future flooding along a river and several creeks located in that County; and

Whereas, the current Proclamation is due to expire on February 9, 1997.

Now therefore, pursuant to the provisions of Subsection 7301(c) of the Emergency Management Services Code (35 Pa.C.S. Section 7101 et seq.), I do hereby declare, order, and direct that the Proclamation of November 12, 1996 be renewed in Tioga County for a period of ninety days. All provisions

of the November 12, 1996 Proclamation and all authorized actions carried out pursuant to that Proclamation shall remain in effect.

GIVEN under my hand and the Seal of the Governor, at the city of Harrisburg, this seventh day of February, in the year of our Lord, one thousand nine-hundred and ninety-seven, and of the Commonwealth, the two-hundred and twenty-first.

A handwritten signature in black ink that reads "Tom Ridge". The signature is written in a cursive style with a long horizontal stroke at the end.

Governor

[Pa.B. Doc. No. 97-296. Filed for public inspection February 28, 1997, 9:00 a.m.]
