

# THE GOVERNOR

## Title 4—ADMINISTRATION

### PART I. GOVERNOR'S OFFICE

[ 4 PA. CODE CH. 1 ]

[ EXECUTIVE ORDER NO. 2009-02 ]

### Creating Opportunities for Small and Disadvantaged Businesses in the Expenditure of Federal Stimulus Monies

October 28, 2009

*Whereas*, the *American Recovery and Reinvestment Act of 2009, Pub. L. 111-5*, (ARRA) was enacted to preserve and create jobs, promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency by spurring technological advances in science and health, invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits, and stabilize state and local government budgets in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases; and

*Whereas*, in the expenditure of ARRA funds, the Commonwealth must seek to provide opportunities for small businesses, including small disadvantaged businesses, to compete for contracts and grants and to participate as contractors, subcontractors and suppliers (ARRA opportunities) because these businesses play a critical role in stimulating economic growth and creating jobs, they are the engine of our economy, and provide creative, innovative, and technical expertise to support our agencies; and

*Whereas*, I have established, as an overall Commonwealth aspirational goal, that at least ten percent of ARRA funds should go to small disadvantaged businesses as contractors, subcontractors, grantees, subgrantees, and suppliers.

*Now, Therefore*, I, Edward G. Rendell, 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 order the following in regard to the expenditure of ARRA funds:



Governor

**Fiscal Note:** 2009-2. No fiscal impact; (8) recommends adoption.

#### Annex A

#### TITLE 4. ADMINISTRATION

#### PART I. GOVERNOR'S OFFICE

#### CHAPTER 1. AGENCY OPERATION AND ORGANIZATION

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

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**§ 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](http://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](http://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.

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