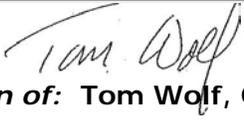


# Executive Order

Commonwealth of Pennsylvania  
Governor's Office

**Subject:**  
Contract Compliance

**Number:**  
2016-05 Amended

  
**By Direction of:** Tom Wolf, Governor

**Date:** June 18, 2018

WHEREAS, this Administration is committed to promoting the prosperity and economic growth of all businesses and citizens of the Commonwealth of Pennsylvania, regardless of race, gender, creed, color, sexual orientation, gender identity or expression, or participation or decision to refrain from participation in protected labor activities; and

WHEREAS, this Administration believes the contracting processes of Commonwealth agencies should be nondiscriminatory and that all businesses contracting with the Commonwealth as well as all grantees should use nondiscriminatory practices in subcontracting, hiring, promoting, and other labor matters; and

WHEREAS, this Administration believes that a single Commonwealth agency should be assigned the responsibility of developing and managing programs for Commonwealth agencies to ensure that discrimination by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or participation or decision to refrain from participation in protected labor activities does not exist with respect to the award, selection, or performance of any contracts or grants issued by Commonwealth agencies; and

WHEREAS, under Sections 301 and 3701 of the Commonwealth Procurement Code, the Department of General Services is generally responsible for the formulation of procurement policy.

NOW, THEREFORE, I, Tom Wolf, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution and laws of the Commonwealth of Pennsylvania, do hereby designate the Department of General Services as the central agency to develop and manage Commonwealth agency programs to ensure that discrimination by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or participation or decision to refrain from participation in protected labor activities does not exist with respect to the award, selection, or performance of any contracts or grants issued by Commonwealth agencies.

**1. 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:

**a.** Nondiscrimination in the award of such contracts and grants.

- b. 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.
  - c. Nondiscrimination by those who are awarded Commonwealth contracts and grants in their award of subcontracts and supply contracts for performance under Commonwealth contracts.
2. **Definitions.** The following words and phrases when used in this Executive Order shall have, unless otherwise defined by Pennsylvania state law and/or the context clearly indicates otherwise, the meanings given to them in this section:
- a. **"Sexual orientation"** means 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.
  - b. **"Gender Identity"** means a person's internal, deeply held sense of their gender, regardless of their biological sex and/or the sex they were assigned at birth.
  - c. **"Gender Expression"** means the external manifestations of gender, expressed through a person's name, pronouns, clothing, haircut, behavior, voice, and/or body characteristics.
  - d. **"Protected labor activities"** means labor activities protected under the Public Employe Relations Act, Pennsylvania Labor Relations Act or National Labor Relations Act, as applicable and to the extent determined by entities charged with such Acts' enforcement.
3. **Responsibilities.**
- a. **The Department of General Services (DGS)** 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 DGS 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 on-site 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 Executive Order.
- (5) Upon request, furnish pertinent information or assistance to DGS.
- (6) Recommend sanctions to the Secretary of General Services, as may be appropriate, for lack of compliance with Commonwealth contracting programs.

c. For those programs where 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 DGS.

**4. Cooperation by Commonwealth Agencies.** Agency Heads and all agencies, boards and commissions under the Governor's jurisdiction shall work cooperatively with DGS to fulfill the demands of this Executive Order. Independent agencies, state-affiliated entities, and state-related agencies are strongly encouraged to work with DGS to adopt, refine, and implement similar procurement practices and procedures to support greater diversity, inclusion, and fairness in the contracting process.

**5. General Provisions.** Nothing in this Executive Order shall be construed to impair or otherwise affect the authority granted by law to an executive department, agency, or the head thereof. This Executive Order 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 of Pennsylvania, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

**6. Effective Date.** This Amended Executive Order shall take effect immediately.

**7. Rescission.** *Executive Order 2006-02, Contract Compliance*, was rescinded April 6, 2016.