



## PA TURNPIKE COMMISSION POLICY

*This is a statement of official Pennsylvania Turnpike Policy*

**NUMBER:** 7.10

**APPROVAL DATE:** 01-08-2013

**EFFECTIVE DATE:** 01-23-2013

**REVISED DATE:** 12-17-2014

**POLICY SUBJECT:**

**Business and Supplier  
Diversity and Contract  
Compliance**

**RESPONSIBLE DEPARTMENT:**

**Office of Diversity and Inclusion**

**A. PURPOSE:**

The Pennsylvania Turnpike Commission (“Commission”) recognizes the importance of disadvantaged, small, minority, women, service-disabled veteran-owned, and veteran-owned businesses to the economy of the Commonwealth and to the customers that travel the Pennsylvania Turnpike System. Accordingly, the Commission desires to promote fair and equitable opportunities and competition in Procurement by assisting Diverse Businesses in competing for contracting opportunities with the Commission. The Commission also establishes the Contract Compliance Review (CCR) Program to promote Nondiscrimination in Procurement through effective monitoring and reviews.

**B. SCOPE:**

This policy letter applies to Diverse Businesses seeking to do business with the Commission or its vendors and to Commission employees who plan, procure, and manage such contracts.

**C. GENERAL POLICY:**

It is the policy of the Commission to promote Equal Opportunity, Nondiscrimination, and competition in all Procurement opportunities through effective outreach, promotion, compliance monitoring, and reviews.

The Commission supports a CCR program that takes measures to ensure that Commission Procurement opportunities and contracts are free from adverse impact without regard to race, color, religion, gender, national origin, or veteran status.

CCR is supported by the following laws: Title VI Civil Rights Act of 1964, as amended; Title VII Civil Rights Act of 1964, as amended; Executive Order 2006-02, Contract Compliance dated January 31, 2006; Affirmative Action and Nondiscrimination Obligation of Contractors and Subcontractors Regarding Individuals with Disabilities; Executive Order 2002-4, Prohibition of Sexual Harassment in the Commonwealth, dated May 3, 2002; Age Discrimination in Employment Act of 1967, as amended; Equal Pay Act of 1963, as amended; Act 89 of 2013 (codified at 74 Pa. C.S.A. Section 303 as amended); 62 Pa. C.S.A. Section 103 as amended; 51 Pa. C.S.A. Chapter 96; and the Americans with Disabilities Act of 1990, as amended.

The Commission's Office of Diversity and Inclusion ("Office") administers the Commission's Business and Supplier Diversity Program and the Commission's CCR program. The Office has oversight responsibility for assuring Equal Opportunity and Nondiscrimination in Commission Procurement. The Office shall also recommend and monitor Minimum Participation Level Goals for Diverse Businesses for qualified professional services, construction, and engineering contracts.

The Commission may establish Minimum Participation Level Goals for Diverse Business participation on all contracts, amendments, work orders and extensions that exceed \$250,000.00 for Construction and Engineering Procurements and \$50,000.00 for other Professional Services Procurements.

An overall Commission objective of 10% of the value of purchases has been established for Diverse Businesses on all other Procurements not mentioned above.

Firms prequalified through the Pennsylvania Department of Transportation ("PennDOT") Prequalification of Bidders Program are expected to be familiar with and follow the Commission's Commitment to Business Diversity on Commission construction contracts.

**D. DEFINITIONS:**

1. Diverse Business (DB): A Disadvantaged Business, minority-owned or women-owned business or service-disabled veteran-owned or veteran-owned small business that has been certified by a Third Party Certifying Organization.
2. 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.
3. Equal Opportunity: Policies and practices in employment and other areas that do not discriminate against persons based on race, color, religion, gender, national origin, or veteran status.
4. Equal Opportunity Plan: A written document committing the vendor to a program designed to achieve a balanced work force within a reasonable period of time. It contains, at a minimum, a policy statement, work force analysis, program objectives, internal monitoring system and dissemination of the plan.
5. Good Faith Effort: Demonstrated steps by prospective Commission vendors to increase opportunities for Diverse Businesses.
6. Minimum Participation Level Goals: A designated amount or percentage of a Commission-funded contract that establishes minimum goals for Diverse Business participation which reflects Commission goals for Diverse Business participation on that particular contract.
7. Nondiscrimination: The practice or policy of refraining from discriminatory practices.
8. Office: The Commission's Office of Diversity and Inclusion.

9. Procurement: Buying, purchasing, renting, leasing, licensing, or otherwise acquiring any supplies, services, or construction. The term also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
10. Third Party Certifying Organization: An organization that certifies a small business, minority-owned business, women-owned business, or veteran-owned small business as a Diverse Business. The term includes the following approved Department of General Services certification entities:
  - Unified Certification Program (UCP);
  - United States Small Business Administration (SBA) Section 8(a) Program;
  - National Minority Supplier Development Council (NMSDC);
  - Women’s Business Enterprise National Council (WBENC);
  - VetBiz Vendor Information Pages (VIP) at [vetbiz.gov](http://vetbiz.gov).

**E. PROCEDURES:**

1. The Office shall make available resources for business and supplier diversity through community outreach, partnerships, training, communications, and web presence. All information and resources regarding business diversity and contract compliance will be posted on the Commission’s website and are available by contacting the Office.
2. The Office conducts periodic training and informational sessions for all prospective business entities desiring to do business, and those currently conducting business, with the Commission.
3. The Office shall implement Minimum Participation Level Goals for Diverse Business utilization as approved by the Commission.
4. As appropriate, the following terms shall be added to Commission Procurement contracts for construction and professional services: terms that provide for cooperation with the Office regarding compliance review (e.g. furnishing or making available for inspection, in a timely manner, a vendor’s documents regarding contracting opportunities with Diverse Businesses and the vendor’s Equal Opportunity Plan, communications, verification of payments, and necessary reports and assistance as required to complete a compliance review) and terms that provide for creation of development plans by the Office for vendors to comply with contracts requirements regarding Nondiscrimination and Equal Opportunity.
5. The Office shall have access to all information for all Commission Procurement activities to assure diversity and compliance throughout the Procurement process including an evaluation of Good Faith Efforts. Bids shall be evaluated based on the requirements set forth in the invitation

for bids. Proposals shall be evaluated according to evaluation factors whose relative importance shall be fixed before opening the proposals.

6. Commission departments and employees involved in Procurement of construction and professional services shall obtain a copy of the vendor's documents regarding contracting opportunities with Diverse Businesses, the vendor's Equal Opportunity Plan, and a clearly stated plan for achieving compliance with applicable Commission Minimum Participation Level Goals.

7. Commission project managers are responsible for timely submittals of compliance reports and for contract oversight to ensure consistency of contract compliance.

8. The Office shall establish a monitoring and reporting system for contract compliance. As part of contract compliance, the Office may review contract documents and prepare reports of those reviews. Accordingly, vendors who are considered non-compliant after review by the Office may be subject to a development plan to improve within a designated timeframe. Vendors not fully compliant after a designated timeframe may be considered in breach of the Commission contract and may be subject to additional sanctions that may include: nonpayment, debarment, contract termination and/or civil or criminal referrals.

9. The Office shall coordinate the Commission's response to the following statutory reporting deadlines:

A. Before PennDOT's annual October 1 deadline, the Office will forward to PennDOT information regarding the participation level of Diverse Businesses in all competitive contracting opportunities issued by the Commission; see 74 Pa. C.S.A. Section 303(A.1)(2) [PennDOT has this deadline for reporting the participation levels of Penn DOT, the Commission, and local transportation organizations to the Chairman and Minority Chairman of the Transportation Committee of the Pennsylvania Senate and the Chairman and Minority Chairman of the Transportation Committee of the Pennsylvania House of Representatives; the report shall include the percentage of participation by Diverse Businesses, the total value of all contracts executed which include participation by Diverse Businesses in the prior year, and the number of businesses penalized for violating Section 303].

B. Report in writing by October 1 annually to the Veterans Affairs and Emergency Preparedness Committee of the Pennsylvania Senate and to the Veterans Affairs and Emergency Preparedness Committee of the Pennsylvania House of Representatives the actual utilization by the Commission of veteran-owned small businesses and service-disabled veteran-owned small businesses during the preceding fiscal year, which includes a list of all veteran-owned small businesses and service-disabled veteran-owned small businesses that participated as contractors, subcontractors, suppliers, and professional services providers during the preceding fiscal year (see 51 Pa. C.S.A. Section 9607).

*This Policy Letter supersedes all previous Policy Letters on this subject.*