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DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

By His Excellency
DEVAL L. PATRICK
GOVERNOR
EXECUTIVE ORDER NO. 523

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ESTABLISHING THE MASSACHUSETTS SMALL BUSINESS PURCHASING PROGRAM

WHEREAS, Small Businesses are the backbone of the Commonwealth, represent the vast majority of businesses in the Commonwealth, employ hundreds of thousands of workers in the Commonwealth, and contribute to the overall health of the Massachusetts economy;

WHEREAS, the state agencies of the Commonwealth purchase hundreds of millions of dollars in commodities and services each year;

WHEREAS, Small Businesses in the Commonwealth must compete within a global economy for the Commonwealth's business;

WHEREAS, in order to encourage the growth of existing Small Businesses, and in accordance with all applicable laws, special consideration should be given by state agencies to Small Businesses when such agencies are purchasing commodities and services to meet their business needs;

WHEREAS, the national and regional economies have severely impacted all industries and all types and sizes of businesses, including Small Businesses; and

WHEREAS, there is an immediate need to continue to address the economic issues facing Small Businesses in the Commonwealth;

NOW, THEREFORE, I, Deval L. Patrick, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me by the Constitution, Part 2, c. 2, § 1, Art. I, do hereby order as follows:

Section 1. Application. This Executive Order shall apply to the procurement and purchase of commodities and services under M.G.L. Chapter 7, Section 22; M.G.L. Chapter 30, Sections 51 and 52; and 801 CMR 21.00 by all state agencies of the Executive Department. As used in this Order, "state agencies" shall include all executive offices, boards, commissions, departments, divisions, councils, bureaus, offices, and other agencies now existing and hereafter established. Independent authorities, public institutions of higher education, elected officials, constitutional officers, the legislature and judiciary are encouraged to adopt policies and programs consistent with this Executive Order. The Small Business Purchasing Program does not apply to construction procurement.

Section 2. Declaration of Policy. There is hereby established a Small Business Purchasing Program ("Program"), which shall be located within the Operational Services Division ("OSD") of the Executive Office for Administration and Finance ("ANF"). The purpose of the Program is to support the existence and growth of small businesses which meet the Program's eligibility requirements by providing them with special consideration within the Commonwealth's procurement process for goods and services required by state agencies.

Section 3. Small Business Purchasing Program Oversight and Policies. The Operational Services Division shall be responsible for the overall management, monitoring and enforcement of the Small Business Purchasing Program, established pursuant to this Executive Order, including the following:

(a) Research. OSD shall conduct an in-depth review of small business purchasing programs in other states in order to ascertain the best practices and obstacles that said programs have experienced.

(b) Program Development. Given the immediate need to address the economic issues facing Small Businesses, OSD shall adopt Small Business Purchasing Program policies by July 31, 2010, in order to further define the parameters of the Program, including the definition of a Small Business, the guidelines for Small Business participation in the program and the development of oversight, audit, quality assurance and enforcement provisions, including penalties

for businesses that misrepresent their status as a “Small Business.” OSD may conduct public hearings or otherwise solicit input from all stakeholders, including the business community, in the development and implementation of the Small Business Purchasing Program policies.

(c) Small Business Eligibility Determination. OSD shall develop by no later than July 1, 2010 a process in the Commonwealth’s Procurement Access and Solicitation System (“Comm-PASS” or its successor system), whereby Small Businesses will enter information about their business to determine eligibility for the Small Business Purchasing Program and attest that their business meets all eligibility requirements and that the information submitted is accurate and true. OSD may also work with relevant public and private entities in acquiring data and information in order to ascertain the legitimacy of a business’s claim that it is a Small Business. The process may also include the audit and enforcement by OSD of small business eligibility and the assessment of penalties against businesses that misrepresent their status as a small business.

(d) Promotion of the Program. OSD shall actively promote the Program and shall also provide technical assistance, outreach and training to Small Businesses about the state procurement process and the Comm-PASS system.

(e) Program Policies and Benchmarks for State Agencies. OSD shall develop policies that require specific procurements and purchases of non-construction commodities and services by state agencies to be targeted to eligible Small Businesses. These policies may require that the entirety of a procurement be targeted to Small Businesses or that there be a set aside within a procurement that is targeted to Small Businesses.

OSD shall monitor the success of the program and measure the expenditures made by each state agency to eligible Small Businesses. Based on these spending levels, OSD shall, with input from Secretariats, state agencies, and the Secretary of Administration and Finance, or his/her designee, set benchmarks for each state agency’s “Small Business Expenditures” in the upcoming fiscal year.

Section 4. Secretariat and Agency Responsibilities. Each Secretary and Agency Head must designate by July 16, 2010 an individual as a “Small Business Liaison”, who will be charged with ensuring their respective agency or secretariat’s compliance with this Executive Order and with supporting the implementation,

monitoring and enforcement of this Program and the coordination of those functions within their Secretariat. The individual may be an existing employee who has other duties in addition to those required of the Small Business Liaison.

Each Secretary, Agency Head and Small Business Liaison may further designate such other individuals from among their agencies that are necessary to assist the Small Business Liaison with its agency's compliance with the requirements of this Order, including coordinating and communicating with and providing all requested reports and assistance to the Operational Services Division. Each Secretariat shall ensure that Agencies establish, subject to guidelines developed by the Operational Services Division, special provisions that serve as governing standards for contract compliance.

The State Purchasing Agent shall direct OSD's Quality Assurance, Outreach and Training Program to periodically monitor compliance with this Executive Order as part of their regular reviews of state agency procurements and include Small Business Purchasing Program information in all appropriate training sessions.

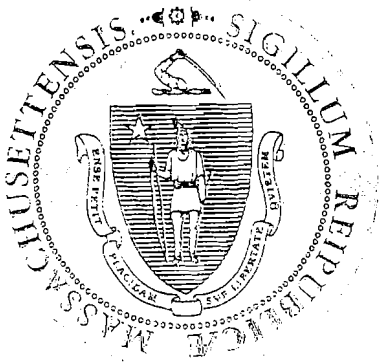
Section 5. Reporting. All state agencies shall ensure that they input the required small business designation into the Commonwealth's accounting system, known as the Massachusetts Management, Accounting, and Reporting System ("MMARS" or its successor system), which will provide the capacity for a required small business designation. All state agencies shall ensure that they comply with guidance on this requirement to be issued by OSD in consultation with the Office of the Comptroller in order to assist the Operational Services Division in determining the total expenditures made by each state agency to Small Businesses for non-construction goods and services.

In addition, OSD shall report annually within 90 days of the close of each fiscal year to the Secretary of the Executive Office for Administration and Finance on the effectiveness of the program, including the total expenditures made to Small Businesses for non-construction goods and services, the number of eligible Small Businesses participating in the Program, and the outreach and training efforts of the Small Business Purchasing Program. OSD may request additional information from state agencies to assist in the compilation of this report.

Section 6. Small Business Purchasing Program Eligibility. For purposes of this Order, the term "Small Business" shall mean a business that has both no greater

than the specific number of employees and no greater than the specific annual revenue level established according to the policies to be issued by the Operational Services Division pursuant to Section 3 herein.

Section 7. Effective Date. This Executive Order shall take effect immediately and shall continue in effect until amended, superseded, or revoked by subsequent Executive Order.



Given at the Executive Chamber in Boston this 29th day of June in the year two thousand and ten, and of the Independence of the United States of America two hundred and thirty-four.

A handwritten signature in black ink, appearing to read "Deval Patrick".

DEVAL L. PATRICK
GOVERNOR
The Commonwealth of Massachusetts

A handwritten signature in black ink, appearing to read "William Francis Galvin".

WILLIAM FRANCIS GALVIN
Secretary of the Commonwealth

GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS