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DEVAL L. PATRICK
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TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

By His Excellency

DEVAL L. PATRICK
GOVERNOR

EXECUTIVE ORDER NO. 524

ESTABLISHING THE MASSACHUSETTS
SUPPLIER DIVERSITY PROGRAM

(Revoking and Superseding Executive Order No. 390)

WHEREAS, The Commonwealth has an affirmative responsibility to develop and maintain equitable practices and policies in the public marketplace;

WHEREAS, a diverse business community strengthens the state economy and is beneficial to all of the citizens of the Commonwealth;

WHEREAS, pursuant to Section 57 of Chapter 7 of the General Laws, it is the policy of the Commonwealth to promote and facilitate the fullest possible participation by all citizens in the affairs of the Commonwealth;

WHEREAS, various public and private programs have been initiated to assist minority and women business enterprises, where applicable, to achieve economic viability, and that state government, as the largest business in the Commonwealth of Massachusetts, has a special responsibility to see that all available services and programs are put to the best use;

WHEREAS, the steps set forth in this Executive Order are necessary to guarantee the fullest participation by all citizens of the

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Commonwealth in the economy of the state and to guarantee the fullest benefits to citizens of programs and services available for assistance.

WHEREAS, pursuant to Section 57 of Chapter 7 of the General Laws, effective May 1, 2010, the Supplier Diversity Office (SDO), the successor agency to the State Office of Minority and Women Business Assistance (SOMWBA), is located within the Operational Services Division (OSD) within the Executive Office for Administration and Finance (ANF) of the Commonwealth; and

WHEREAS, Executive Order 519, issued on January 28, 2010, established an Office of Access and Opportunity within ANF, the purpose of which is to promote non-discrimination and equal opportunity in all aspects of state government, including but not limited to, employment, procurement, and policy relative to state programs, services, and activities.

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. 1, do hereby revoke Executive Order 390 and order as follows:

Section 1. Declaration of Policy

It is the policy of the Commonwealth to promote equity of opportunity in state contracting; and, to that end, encourage full participation of minority and women owned businesses in all areas of state contracting, including contracts for construction, design, goods and services.

Section 2. Supplier Diversity Program

There is hereby established a Supplier Diversity Program (SDP) within the Supplier Diversity Office (SDO) of OSD for the purpose of meeting the goals set forth in Section 1, Declaration of Policy.

Subject to the approval and direction of the State Purchasing Agent, or his/her designee, all executive offices, agencies, departments, boards and commissions of the Commonwealth (hereinafter referred to as

"Agency" or "Agencies") are hereby directed to implement the SDP set forth in this Executive Order which shall include and reflect narrowly tailored race and gender conscious goals, which pursue equality in public procurement and contracting between minority owned businesses or women owned businesses and other business entities in the Commonwealth of Massachusetts.

For purposes of this Executive Order, Minority Business Enterprise (MBE) and Woman Business Enterprise (WBE) shall have the same meaning as defined in section 58 of chapter 7 of the General Laws.

Goals for MBE and WBE participation in state funded contracts shall be based upon the broadest and most inclusive pool of available MBEs and WBEs capable of performing the contracts and interested in doing business with the Commonwealth in the areas of construction, design, goods and services. The Supplier Diversity Office (SDO), created pursuant to section 58 of chapter 7 of the General Laws and formerly known as SOMWBA, or its successor, shall maintain a current directory of certified MBEs and WBEs which will serve as one source of information in determining the pool of available MBEs and WBEs. Goals shall be established by the State Purchasing Agent, or his/her designee, in consultation with the Secretary of Administration and Finance, or his/her designee, and shall be expressed as overall annual program goals, applicable to the total dollar amount of an Agency's contracts awarded during the fiscal year for each of the Agency's types of contracts.

The State Purchasing Agent, or his/her designee, shall develop a procedure by which Agencies may, for an individual contract, adjust the goals for MBE and WBE participation based upon the results of a disparity study, which shall include an analysis of the actual availability and utilization of minority- and/or women-owned businesses, documented evidence of racial and/or gender discrimination that created the disparity, a narrowly tailored plan aimed at addressing the discrimination, geographic location, the contractual scope of work, and other relevant factors.

The State Purchasing Agent, or his/her designee, shall develop a good faith efforts waiver procedure by which Agencies may determine, at any time prior to the award of the contract, that compliance with the goals is

not feasible and by which Agencies may reduce or waive the goals for an individual contract; provided that, the waiver procedure shall be developed in consultation with the Secretary of Administration and Finance or his/her designee.

Recognizing the importance of joint ventures and partnerships involving MBEs and WBEs in increasing the participation of MBEs and WBEs in state contracting, the State Purchasing Agent, or his/her designee, shall develop guidelines and procedures for Agencies to follow in contracting with such entities. Such guidelines and procedures shall seek to encourage the development of joint ventures and partnerships for the purpose of contracting with the Commonwealth. Such guidelines shall be developed in consultation with the Secretary of Administration and Finance or his/her designee.

Section 3. Capacity Development

SDO, or its successor, is hereby designated the state office responsible for providing a capacity development program to MBEs and WBEs. The capacity development program shall include technical assistance, training, outreach and mentoring to the minority- and women-owned business community and shall include, but not be limited to, the following core areas of business development: strategic planning, financial management planning, human resource management and planning, information technology access and management, and marketing. SDO, as necessary, will work closely with agencies within the Executive Office for Housing and Economic Development, or its successor, to coordinate and expand such efforts within the MBE and WBE community.

Contracting Agencies of the Commonwealth may supplement the capacity development program provided by SDO with industry specific assistance, technical assistance, training, mentoring, education, and procurement information. In addition, SDO will collaborate with other public and private sector entities and include the results of these collaborative efforts in their annual report to the Secretary of Administration and Finance, or his/her designee, and the State Purchasing Agent.

Section 4. Program Oversight and Enforcement

The Operational Services Division shall be responsible for the overall management, monitoring and enforcement of the program established pursuant to this Executive Order. The Director of SDO shall be designated within OSD for program development, coordination, monitoring contract compliance across all Agencies, addressing potential program violations and coordinating Agency enforcement activities with the State Purchasing Agent, or his/her designee, and the Secretary of Administration and Finance, or his/her designee.

Each Secretary and Agency head shall designate a highly placed individual to serve as the Supplier Diversity Officer, who shall be charged with management of the Supplier Diversity Program within the Secretariat/Agency. Each Secretary and Agency head may designate such other personnel as they deem necessary to support the implementation, monitoring, and enforcement of this program and the coordination of those functions. Each Secretariat shall ensure that Agencies establish, subject to guidelines developed by the OSD, provisions that serve as governing standards for contract compliance. It is the intention of this Executive Order that the principles underlying the SDP be incorporated into the fabric of general management in state government.

Section 5. Reporting Requirements

Each Secretariat and Agency shall report annually on the prior fiscal year's activities by no later than the last Friday in November to the Director of SDO on the effectiveness of the program, including a report of the total dollar amounts, including prime contracting and subcontracting, for vertical and horizontal construction and commodities and services, both awarded and actually paid to MBEs and WBEs in all areas of state contracting.

The Director of SDO shall report annually on the prior fiscal year's activities by no later than March 15th to the Governor, Secretary of Administration and Finance, or his/her designee, the State Purchasing Agent and the SDO Advisory Board, which is established by this Executive Order, on its progress in assisting minority- and women-owned businesses, including a review and, where necessary, modification of its certification

process to ensure that it operates effectively. This report shall also include the progress of Secretariats and Agencies in meeting the requirements of the SDO program.

Additionally, the Supplier Diversity Office shall prepare quarterly reports regarding the progress of secretariats and agencies in meeting the requirements of the SDO program.

Section 6. Supplier Diversity Office Advisory Board

The Executive Director of SDO, with the approval of the State Purchasing Agent, shall make recommendations to the Secretary of Administration and Finance, or his/her designee, who shall appoint an SDO Advisory Board, not to exceed 20 members, which shall assist the SDO in the implementation of this Executive Order. In addition, the Advisory Board shall be responsible for ensuring that the mission of the SDP, which is to promote the award of state contracts in a manner that develops and strengthens certified MBEs and WBEs, is carried out in a responsible manner and for assisting the Executive Director in the development, implementation and promotion of the program.

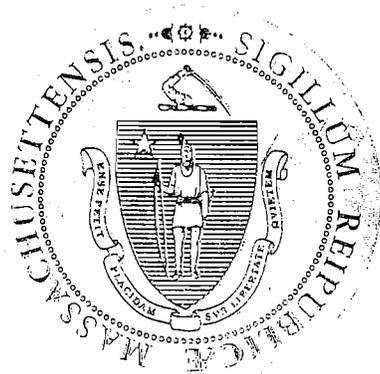
Advisory Board members shall serve for two-year terms, except that in the initial appointments, one half shall be appointed to one-year terms, and one half shall be appointed to two year terms. Members may serve a maximum of three full two-year terms. Current members of the Affirmative Market Program (AMP) Business Advisory Board, created pursuant to Executive Order 390, may remain in their current capacity for a period not to exceed one year from the effective date of this Executive Order.

Section 7. Other Commonwealth Public Entities

Independent authorities, public institutions of higher education, elected officials, constitutional officers, the legislature and judiciary are encouraged to adopt MBE and WBE policies and programs consistent with this Executive Order.

Section 8. 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 15th day of September in the year of our Lord 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 L. Patrick".

DEVAL L. PATRICK
GOVERNOR
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