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DEVAL L. PATRICK
GOVERNOR

BY HIS EXCELLENCY

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

DEVAL L. PATRICK
GOVERNOR

EXECUTIVE ORDER NO. 533

**ENHANCING THE EFFICIENCY AND EFFECTIVENESS OF
EXECUTIVE DEPARTMENT PROCUREMENTS
AND ESTABLISHING A MUNICIPAL PROCUREMENT PROGRAM**

SECRETARY OF STATE
REGULATIONS DIVISION
2011 MAY 10 PM 1:07

WHEREAS, the national economy, the financial system on which the economy relies, and the state budget are now under significant stress;

WHEREAS, state government must strive to achieve every possible efficiency in its operations and in its procurement of goods and services for use by Commonwealth public entities and in its delivery of services to the people of the Commonwealth;

WHEREAS, one mechanism for achieving greater efficiency and cost-effectiveness is by further coordinating and centralizing the management and oversight of the Executive Department's procurement practices and decision-making;

WHEREAS, the Commonwealth spends in excess of \$1 billion in the aggregate each fiscal year on goods and services, excluding energy; space rental, construction and health and human services expenses;

WHEREAS, through the improved coordination, centralization and implementation of best practices at the secretariat-level of state agency procurements and the oversight and aggregation by the

Operational Services Division of all procurement, the Commonwealth can achieve considerable cost-savings, while receiving goods and services equal or better than those presently purchased;

WHEREAS, Commonwealth-procured contracts for goods and services currently provide savings opportunities for all Commonwealth public entities, including cities and towns, and, whereas, additional contracts for goods and services unique to the needs of cities and towns procured by the Commonwealth on behalf of cities and towns would provide even greater savings;

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, order as follows:

Section 1. This Executive Order shall apply to the procurement and purchase of goods and services (as defined below) pursuant to 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 and other entities governed by those provisions. As used in this Order, the terms “goods and services” shall not include energy, space rental, construction and health and human services expenses. As used in this Order, the term “strategically source” or “strategic sourcing” shall refer to the planned, systematic and enterprise-wide procurement process that continuously improves and re-evaluates the purchasing activities of the enterprise. As used in this Order, the term “Assistant Secretary for Operational Services” shall also mean the “State Purchasing Agent”, both of which are defined in MGL Chapter 7, Section 4A.

Section 2. I hereby direct the Assistant Secretary for Operational Services (hereinafter “Assistant Secretary”) of the Commonwealth’s Operational Services Division (“OSD”), who serves as the Commonwealth’s Chief Procurement Officer, to lead and implement all directives in this Executive Order, including to:

- Investigate opportunities to standardize and streamline the Commonwealth’s procurement processes both within OSD and the Executive Department in order to simplify the process for state agency procurement staff when conducting the

procurements, for public entity purchasing staff when using the contracts and for interested bidders when bidding on the procurements;

- Conduct a comprehensive review with other interested parties of the Commonwealth's standard terms and conditions and other procurement terms by October 1, 2011 for opportunities for improvements or adjustments and to identify terms that are unnecessary, costly and/or create a barrier to doing business with the Commonwealth;
- Develop and issue procurement and purchasing document templates, including, for example, a solicitation document (currently referred to as a "Request for Response" (RFR)) template similar to the RFR template used for statewide contracts, for use by state agencies by October 1, 2011 in order to streamline the process for agencies and standardize the terms for bidders, thereby making the procurement process more user friendly for agencies and businesses;
- Provide procurement training for state agency procurement staff, including the establishment of minimal procurement training requirements for state agency procurement staff;
- Perform outreach to work cooperatively and plan and strategically source the purchases for state agencies and other Commonwealth public entities to the extent practicable and where cost savings may be achieved;
- Improve customer service to public entities and businesses by implementing a Procurement Helpline;
- Investigate and benchmark Commonwealth prices for goods and services against other contracts that are of similar scope and complexity;
- Working with other professional procurement associations, identify other successful procurement models and practices and investigate implementation of such best procurement practices in the Commonwealth; and
- Investigate, lead and/or designate collective/cooperative procurements with other states and Commonwealth public entities, including, but not limited to, Commonwealth state colleges and universities and the Massachusetts Higher Education Consortium, with a goal of leveraging buying power,

sharing resources and best practice strategic sourcing techniques, when in the best interest of the Commonwealth.

Section 3. By October 1, 2011, OSD shall establish and implement, in consultation with the Commonwealth's Inspector General and Commonwealth municipalities, a Municipal Procurement Program ("MPP") within OSD for purposes of providing the following ongoing services for Commonwealth cities and towns:

- Outreach to municipalities and survey of their unique procurement needs that are not being fulfilled by current statewide, department or their own contracts;
- Procurement, or delegation of procurement to other departments, of high volume goods and services that are needed by Commonwealth cities and towns;
- Coordination and aggregation of planned municipal and state agency spending from statewide or department contracts; and
- Provision of training to cities and towns on how to use statewide and department contracts and how to navigate the Commonwealth's procurement processes and systems.

Section 4. By July 1, 2011, the secretary of each executive office ("secretariat") in the Executive Department shall appoint a Secretariat Chief Procurement Officer ("SCPO") and shall submit names of said SCPOs to the Assistant Secretary. Each SCPO shall report both to the SCPO's respective secretariat and, through a dotted line relationship, to the Assistant Secretary. Each SCPO shall also serve in the role of Secretariat Supplier Diversity Officer as defined in Section 4 of Executive Order 524. Where operationally warranted, SCPOs shall have the authority, following consultation with agency heads, to appoint chief procurement officers for agencies within their secretariats ("Agency CPOs"). Each Agency CPO shall report to the SCPO of his or her Secretariat. Additionally, each Agency CPO shall serve as the Agency Supplier Diversity Officer as defined pursuant to Section 4 of Executive Officer 524. All agency procurement personnel shall report to the Agency CPO or to his or her designee, or where no Agency CPO is appointed, to the SCPO for the agency's secretariat. SCPOs, Agency CPOs and other state agency procurement staff shall meet all minimum procurement training

standards and attend all required procurement training sessions as determined by the Assistant Secretary.

Section 5. By July 1, 2011, and thereafter modified based on and after the Fiscal Year 2012 budget is enacted, each SCPO shall submit to the Assistant Secretary for review and approval a FY 2012 secretariat procurement plan ("Secretariat Procurement Plan") that demonstrates how the Secretariat will, no later than September 30, 2011, migrate to the most efficient model for the management and oversight of secretariat procurements consistent with all applicable procurement laws, regulations and policies and procedures as established by the Assistant Secretary and the goals and objectives of the Commonwealth's Supplier Diversity Program. The Plan shall also address, at a minimum, the following:

- The amount of funds, from all sources, whether operating, capital, trust or otherwise, expended in Fiscal Year 2011 and previous two fiscal years on the purchase of goods and services within the secretariat;
- The types of goods and services routinely purchased by the secretariat;
- The secretariat and department procurement personnel, if any, specifically assigned to manage and oversee and conduct procurements within the secretariat and their job titles and areas of responsibility;
- The projected spending for the current and upcoming fiscal year on the purchase of goods and services broken out by spending category;
- Best practices, strategies, policies, procedures and a specific action plan that the secretariat will be implementing to accomplish an approximate 3% reduction in secretariat spending on goods and services in Fiscal Year 2012 in support of the administration's Fiscal Year goal of generating approximately \$30 million in savings by Executive Department on goods and services in Fiscal Year 2012 and the projected reduction in future fiscal years;
- Recommendations for the staffing and the organizational structure or restructure of procurement personnel within the

secretariat and any savings that will result from implementing these recommendations;

- Opportunities for inter-secretariat coordination and collaboration on purchasing of goods and services to achieve cost-savings and enhanced quality;
- Recommendations for specific goods and services that the secretariat would request OSD to procure or to designate a department to procure on statewide contracts;
- Recommendations of secretariat and/or agency procurement personnel to actively participate on OSD, secretariat or agency Procurement Management Teams (“PMTs”) from the top ten consumer agencies as determined by contract usage in the prior fiscal year; and
- Recommendations for policy, practice, or regulatory changes or other reforms that the Commonwealth should consider implementing to improve the efficiency and quality of statewide and secretariat/department procurements.

Section 6. Beginning April 1, 2012, and thereafter modified based on and after the budget for the upcoming fiscal year is enacted, and annually by April 1 thereafter, the SCPO shall provide an annual Secretariat Procurement Plan to the Assistant Secretary and the Executive Office for Administration and Finance (“ANF”) that, at a minimum, contains the following:

- An annual secretariat spending plan that identifies the expected level of spending on the purchase of goods and services within the secretariat;
- Major purchases anticipated for the fiscal year;
- The fiscal year goal for secretariat spending with minority-owned and women-owned businesses;
- Recommendations for reforms, cost-savings and efficiencies in the procurement practices within the secretariat; and
- Recommendations for Commonwealth-wide reforms, cost-savings and efficiencies in the procurement process.

Section 7. There shall be a Procurement Advisory Board (“PAB”) established to advise ANF and the Assistant Secretary on Commonwealth-wide strategic sourcing opportunities and

procurement reforms, with the goal of meaningfully reducing the cost and improving the quality, value, efficiency, techniques and trends of purchasing goods and services within the Commonwealth. The PAB shall be chaired by the Assistant Secretary and comprised of the SCPOs, the Assistant Secretary for Access and Opportunity or his/her designee, and such other members identified by ANF and/or the Assistant Secretary. The PAB shall endeavor to include members from the Judicial and Legislative branches, other constitutional offices, Commonwealth cities and towns, higher education and the quasi-public authorities to enhance the opportunity for aggregate purchasing, standardization of processes, efficiencies and other coordination and collaborative procurement reforms.

The PAB shall meet at least quarterly and shall provide ANF with a quarterly report during its first year and thereafter an annual report regarding its activities, recommendations and progress towards initially reforming and thereafter ensuring the high quality of procurement in the Commonwealth. The PAB shall, without limitation, take the following actions:

- Provide input and recommend improvements to the Assistant Secretary on the Commonwealth's standard terms and conditions and other procurement terms;
- Share best practices among and between secretariats for purchasing;
- Establish a Business Advisory Board, comprised of members of the PAB and business community, which will meet at least twice per year and will provide input from the business community to the PAB about whether the Commonwealth's procurement process creates unnecessary barriers to or burdens associated with doing business with the Commonwealth; provided that at least two members of the Supplier Diversity Office Advisory Board, as defined in section 6 of Executive Order 524, shall be appointed to serve on the Business Advisory Board. The PAB shall also solicit from the Business Advisory Board whether any procurement and contract terms result in unnecessary increased risk and/or cost to businesses, which may result in increased prices paid by the Commonwealth or cause certain businesses not to bid, thereby

limiting competition or inhibiting attainment of the Commonwealth's supplier diversity goals;

- Develop a tracking list of anticipated major purchases and monitor closely these major purchases to ensure that the procurement results in the lowest prices and/or best values for the Commonwealth;
- Consider further organizational, staffing and administrative actions that would improve the procurement process and results in the Commonwealth; and
- Assist the Assistant Secretary in identifying other successful state procurement models and practices and in implementing such best procurement practices in the Commonwealth.

Section 8. By July 1, 2011, the Assistant Secretary shall appoint an eProcurement Advisory Board including the Assistant Secretary for Access & Opportunity or his/her designee, the Commonwealth's Chief Information Officer ("CIO") or his/her designee, the Comptroller of the Commonwealth or his/her designee, the Secretariat CIO of the Executive Office for Administration and Finance, the OSD CIO and the OSD Director of eProcurement for the purpose of:

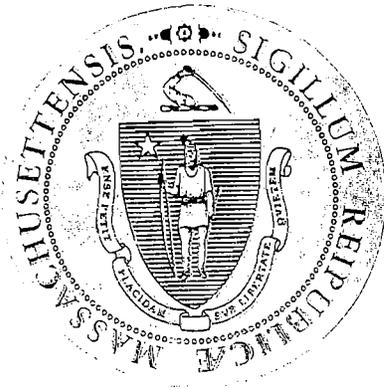
- Reviewing all currently available procurement-related systems and tools, including but not limited to Comm-PASS, to determine capabilities and limitations;
- Assessing which improvements and reforms can be implemented immediately and longer-term through existing systems;
- Reviewing systems and tools used by other states or offered by solution providers;
- Developing a strategic plan for funding, specifying and implementing an eProcurement solution which streamlines business processes including aggregation, lowers barriers to competition, collects procurement level information, facilitates the goals and objectives of the Commonwealth's Supplier Diversity Program, eliminates paper and provides public transparency; and
- Consulting with the Commonwealth CIO and the ANF SCIO in order to ensure that all proposed systems align with the Commonwealth and Secretariat goals and priorities, and comply with ITD enterprise policies and standards.

Section 9. Where appropriate, and with the approval of the Secretary for Administration and Finance, the Assistant Secretary shall have the authority to enforce this Executive Order by determining and imposing remedial courses of action in instances of secretariat or agency non-compliance with this Order's requirements.

Section 10. The Assistant Secretary shall report annually, beginning August 1, 2011, to ANF concerning: (a) progress made by the Executive Department towards statewide and secretariat procurement reform; (b) the results of such reforms; (c) opportunities for additional reforms in the Executive Department's procurement statutes, regulations, policies, practices and standards; (d) goals for the upcoming fiscal year for cost-savings and efficiencies with the anticipated purchasing actions, with a specific action plan containing steps to bring about an annual reduction in spending on goods and services, including approximately \$30 million in savings by Executive Department on goods and services in Fiscal Year 2012; and (e) the major purchases anticipated in the Executive Department in the upcoming year and steps being taken to manage effectively and efficiently all purchasing decisions.

Section 11. Nothing in this Executive Order shall be construed such that any recommended policies, processes or actions are inconsistent with section 5 of Executive Order 526 (Non-discrimination, Diversity, Equal Opportunity, and Affirmative Action) or shall be implemented in a manner that is inconsistent with the goals and objectives of Executive Order 524 (Massachusetts Supplier Diversity Program), Executive Order 515 (Environmental Purchasing Policy), Executive Order 527 (Office of Access and Opportunity within the Executive Office of Administration and Finance) or Executive Order 523 (Massachusetts Small Business Purchasing Program), unless repealed.

Section 12. 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 9th Day of May in
the Year of our Lord two thousand
and eleven, and of the
Independence of the United States
of America two hundred and thirty-
five.

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