MINORITY BUSINESS DEVELOPMENT

WHEREAS, it is the policy and intent of this Administration to promote and facilitate the fullest possible participation by all citizens in the resources provided by state government, and

WHEREAS, minority business enterprises frequently face inordinate problems in achieving viable economic status, and

WHEREAS, minority business enterprises are underrepresented among the enterprises doing business with state government, and

WHEREAS, state government, as one of the largest corporations, public or private, in the Commonwealth of Massachusetts, has a special responsibility to ensure that all available services, programs and resources are put to the best use;

NOW, THEREFORE, I, Michael S. Dukakis, the Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me as Supreme Executive Magistrate, do, hereby issue this Order as a necessary step to guarantee the fullest participation by minority businesses in the economy of the Commonwealth and the opportunities created through state government activities.

ARTICLE I

Policy and Standards

1.1. It is the policy of the Commonwealth of Massachusetts to encourage the greatest possible participation of minority business enterprises (MBEs) in the award of all state contracts including contracts for supplies and equipment, services and construction.

1.2. Each Executive Office, agency, department, board and commission (agency, department board and commission hereinafter referred to as "Agency or Agencies") is hereby directed to achieve the award of at least ten percent of
the total dollar value of construction contracts let by it in each fiscal year to MBEs, and at least five percent of the total dollar value of contracts for supplies and equipment and contracts for services let by it in each fiscal year to MEEs. The five percent shall be achieved by the awarding of at least five percent of the total value of contracts let in each of the categories mentioned namely, contracts for supplies and equipment, and services.

Provided that no later than January 1, 1985, and semi-annually thereafter, the Secretary of Administration and Finance, in consultation with the Oversight Committee, shall determine, based on experience under this Order, to what extent the requirements regarding supplies and equipment and services should be adjusted upward until a ten percent requirement is reached.

1.3. Each public authority of the Commonwealth and the Board of Regents of Higher Education, are strongly encouraged to adopt a policy, similar to this Order, for MBE participation in the award of total dollar value of contracts let in each fiscal year.

ARTICLE II

Minority Business Enterprise Procurement Plan

2.1. MBE Procurement Plans shall be developed and implemented by each Executive Office and Agency. Assistance in developing a plan can be obtained from the State Office of Minority Business Assistance ("SOMBA").

2.2. Each Executive Office shall designate a highly placed person, who shall report directly to the Secretary of the Executive Office, and who shall be responsible for coordinating the development and implementation of the MBE Procurement Plan within the Executive Office and all Agencies under its control.

2.3. Each Agency shall designate a highly placed person, who shall report directly to the chief executive, and who shall be responsible for coordinating the development and implementation of the MBE Procurement Plan within its respective Agency.

2.4. Each Executive Office shall submit its MBE Procurement Plan for approval to the Secretary of Administration and Finance for all Agencies under its control within sixty days from the date of this order and include said plans as part of its annual budget submission each year thereafter.

2.5. Each plan shall include, but not be limited to, the following.

(a). By category (supplies and equipment, services and
construction), a statement of the estimated total procurement dollars to be spent during the current fiscal year, the amount spent with MBEs during the previous fiscal year, the amount projected to be spent with MBEs during the current fiscal year, and the amount projected to be spent with MBEs during the next fiscal year.

(b). A description of the methods, procedures and programs to be implemented in order to meet the objective. The program initiatives may include:

1. targeting some bid invitations to MBEs,
2. promoting joint ventures between MBEs and non-MBEs,
3. requiring prime contractors to subcontract a minimum amount of work on projects to MBEs,
4. designating MBEs as preferred vendors when submitting requests to the Purchasing Agent,
5. dividing large contracts into smaller units to afford opportunities for MBEs, where legally permissible.

(c). A plan for requiring each contractor for supplies and equipment, services and construction, with contracts in amounts of $50,000 or more, to submit to the contracting agency an affirmative action plan that includes the purchase of supplies, equipment and services from MBEs as well as its employment objectives.

2.6. The plan shall identify all other business related resources available within each Executive Office and Agency, including, but not limited to, financing programs, block grants and technical assistance. In addition, the plan shall explain the method to be utilized to increase MBE access to these resources.

2.7. The plan shall build upon existing MBE programs.

2.8. Each Cabinet Secretary and the respective chief executive of each Agency shall be responsible for enforcing, implementing, coordinating and insuring compliance with this Order.

ARTICLE III
Economic Development

3.1. It will be the responsibility of the Secretary of Administration and Finance, in consultation with the Governor's Development Cabinet and Human Resources
Cabinet, to develop a comprehensive MBE program for the Commonwealth.

3.2. All economic and business development policies, legislation and programs which are promulgated by any state governmental body shall include provisions which promote and foster MBE participation.

ARTICLE IV

Responsibilities of SOMBA

4.1. SOMBA's responsibilities shall be, but are not limited to, the following:

1. promulgating rules and regulations for the certification of minority businesses for use by all Executive Offices and Agencies,

2. certifying MBEs, maintaining a list of MBEs for use by state Agencies and publicly disseminating such list,

3. reviewing the certification of all MBEs on at least an annual basis,

4. providing outreach and technical assistance to all MBEs,

5. providing support to all state Agencies in contracting with certified MBEs,

6. assisting MBEs in securing bonding, financing, and removing impediments to particular procurement opportunities.

ARTICLE V

Responsibilities of the Secretary of Administration and Finance

5.1. The Secretary of Administration and Finance shall be responsible for investigating all instance of non-compliance with approved MBE Procurement Plans. If it is determined, after investigation, that any Executive Office or Agency is in non-compliance, the Secretary of Administration and Finance is empowered to take any action deemed appropriate to ensure compliance, including, but not limited to, allotment controls and prior approval of all contracts.

5.2. There shall be appointed within the Executive Office for Administration and Finance a full-time Special Assistant to the Secretary of Administration and Finance who, with appropriate staff, shall be responsible, on behalf of the
Secretary, for ensuring compliance with this Order, monitoring MBE development in the Commonwealth and performing such other related duties as may be assigned by the Secretary.

5.3. The Special Assistant shall prepare quarterly reports and a report at the end of each fiscal year, which shall be submitted to the Governor and the Secretary of Administration and Finance, delineating the performance of the Commonwealth relative to MBEs. The reports shall include, but are not limited to the following:

(a) the number of MBEs certified,
(b) the total dollar amount spent with MBEs by each Executive Office and Agency.

5.4. The Secretary of Administration and Finance shall develop with the Comptroller a policy and system for timely payments to vendors.

5.5. The Secretary of Administration and Finance shall develop a management information system for the purpose of streamlining the reporting requirements under this Order.

5.6. The Secretary of Administration and Finance, after consultation with the Governor's Development Cabinet and Human Resources Cabinet, shall promulgate such rules and regulations as he deems necessary to effect an orderly implementation and to fulfill the purpose and intent of this Order.

ARTICLE VI

Certification

6.1. Each Executive Office and Agency may certify minority business enterprises, consistent with the rules and regulations promulgated by SOMBA. If an initial determination is made by an Executive Office or Agency that a business is a minority business, such determination shall be referred to SOMBA for its approval and certification. SOMBA shall have thirty days from the date of referral to approve or disapprove said business. If SOMBA shall fail to act within thirty days from the date of referral, said business shall be deemed certified as a minority business and entitled to certification for the contract in question only. Once SOMBA certifies a business as a minority business, absent a subsequent determination by SOMBA or any Executive Office or Agency, its certification is effective for all Executive Offices and Agencies.

ARTICLE VII

Minority Business Enterprise Oversight Committee
7.1. The Secretary of Administration and Finance shall appoint a Minority Business Enterprise Oversight Committee, not to exceed fifteen members, which shall assist the Secretary in the development and implementation of this Order.

ARTICLE VIII

Definitions

8.1. For the purpose of this Order, the following definitions shall apply:

"Minority" means a person with permanent residence in the United States who is Black, Western Hemisphere Hispanic, Asian, Native American or Cape Verdean.

"Minority business" any individual, business organization or non-profit corporation which is certified as a minority business by SOMBA or any Executive Office or Agency, consistent with Article VI of this Order.

"Services" professional and non-professional services rendered by non-employees.

ARTICLE IX

9.1. Nothing in this Order is intended to nullify any state law or federal or state program which is now in existence.

Given at the Executive Chamber in Boston this nineteenth day of March in the year of our Lord one thousand nine hundred and eighty-four and of the Independence of the United States of America, two hundred and eight.

Michael S. Dukakis, Governor
Commonwealth of Massachusetts

Michael Joseph Connolly
Secretary of the Commonwealth

GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS