

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE DEPARTMENT
STATE HOUSE, BOSTON 02133

By His Excellency

MICHAEL S. DUKAKIS
GOVERNOR

EXECUTIVE ORDER No. 288

REVOKING AND SUPERSEDING EXECUTIVE ORDER NUMBER 281

Preamble

On January 21, 1989, Executive Order Number 281 was issued, regulating state contracts with companies doing business with the Republic of South Africa and Namibia.

On March 21, 1990, after a century of colonial rule, Namibia gained its independence from South Africa and from the South African policy of apartheid.

In recognition of this victory for democracy and human rights, I, Michael S. Dukakis, Governor of the Commonwealth of Massachusetts, do hereby abolish all regulations prohibiting the procurement of goods and services relative to companies doing business with or in Namibia.

WHEREAS, apartheid is a policy of racial exclusion and repression and is the official policy of the government of the Republic of South Africa;

WHEREAS, under the system of apartheid the non-white citizens of the Republic of South Africa, who represent the overwhelming majority of that nation's population, have been systematically excluded from the material benefits of that society and have been subjected to brutal repression;

WHEREAS, the government of South Africa have imposed on the people of that nation a social system founded on racial separation and the denial of basic human rights;

WHEREAS, the Commonwealth of Massachusetts and the United States of America are committed to the principles of achieving equality of opportunity for all regardless of race, religion or national origin; and

WHEREAS, the Commonwealth of Massachusetts, in continuing its long tradition of upholding the dignity of all people and striving for the elimination of all artificial barriers to human fulfillment and achievement, cannot provide economic support for a social system whose policies are so antithetical

to the principles of the people of Massachusetts;

NOW, THEREFORE, I, Michael S. Dukakis, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me as Supreme Executive Magistrate, do hereby order as follows:

ARTICLE I. Declaration of Policy

- 1.1 The Commonwealth of Massachusetts shall not support through the purchasing power of state government the social system in South Africa that is founded on racial segregation.
- 1.2 The policy of the Commonwealth shall be that unless the procurement is essential and there is no other available source, no state agency shall procure goods or services which (a) originate in South Africa or (b) are provided by a person not located in South Africa, but functioning as an operation, licensee, franchise, or majority-owned subsidiary of a person located in South Africa or functioning as an agent of the government of South Africa.
- 1.3 The Secretary of the Executive Office of Administration and Finance, through the Purchasing Agent's Division, shall establish a purchasing preference policy to steer state contracts away from vendors doing business with or in South Africa and shall maintain and regularly update a list of all persons doing business with or in South Africa. This list shall be known as the "prohibited procurement list". In establishing the prohibited list, the State Purchasing Agent, in consultation with the Secretary for Economic Affairs, shall consult the most recent annual report of the U.S. Consulate General of Johannesburg, entitled "American Firms, Subsidiaries and Affiliates -- South Africa", United Nations reports, and other reliable sources.

ARTICLE II. Definitions

- 2.1 "Doing business with or in South Africa" shall mean, in the case of any person, (a) having any operations, licenses, franchises, majority-owned subsidiaries, or contracts of assured supply in South Africa; or (b) providing financial services to the government of South Africa; or (c) promoting the importation or sale of gold or gold products from South Africa; or (d) providing any goods or services to the government of South Africa.
- 2.2 "Person" shall mean any individual and any partnership, firm, association, corporation, or other entity.

ARTICLE III. Exemptions

- 3.1 This executive order shall not apply to (a) the replacement of parts or provision of services for maintaining and operating the Commonwealth's equipment and systems, and (b) medical supplies intended to preserve or prolong life or to cure, prevent, or ameliorate diseases, including hospital, nutritional, diagnostic, pharmaceutical and non-prescription products specifically manufactured to satisfy identified health care needs, for which there is no medical substitute.
- 3.2 Contractual obligations in effect on the date this executive order is implemented through regulations as provided for in Article IV are not affected by this executive order.
- 3.3 A person with operations in South Africa for the sole purpose of reporting the news or providing international telecommunications shall not be considered doing business in that country.

ARTICLE IV. Implementation

- 4.1 The provisions of this executive order shall be implemented by regulations promulgated by the Secretary of Administration and Finance, through the Purchasing Agent's Division. Such regulations shall be effective on or before July 1, 1989.
- 4.2 No waivers to the provisions of this executive order shall be made except upon the written determination of the Purchasing Agent and the Secretary of Administration and Finance that no practicable substitute is available to satisfy the need of the Commonwealth.
- 4.3 Exemptions in addition to those listed in Article III, when not inconsistent with the purposes of this executive order, may be made by regulations promulgated by the Secretary of Administration and Finance, through the Purchasing Agent's Division.
- 4.4 The Purchasing Agent shall forward copies of the regulations to state authorities and public institutions of higher education, who are encouraged to adopt comparable policies and regulations.
- 4.5 This executive order shall be interpreted to be consistent with any applicable federal law and shall not be interpreted in a way that would result in any loss or reduction in the amount of funds for which the state is eligible or entitled under any federal law.

Michael S. Dukakis, Governor
Commonwealth of Massachusetts

Michael Joseph Connolly
Secretary of the Commonwealth

GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS