

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE DEPARTMENT

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MITT ROMNEY
GOVERNOR

KERRY HEALEY
LIEUTENANT GOVERNOR

By His Excellency

MITT ROMNEY
Governor

EXECUTIVE ORDER NO. 453 (No. 03-11)

**PROMOTING THE CONSIDERATION OF SMALL BUSINESSES
IN AGENCY RULEMAKING**

WHEREAS, small businesses comprise the vast majority of businesses in the Commonwealth, employ hundreds of thousands of workers in the Commonwealth, and are essential to the overall health of the Massachusetts economy;

WHEREAS, small businesses bear a disproportionate share of the cost of complying with government regulations;

WHEREAS, the increasing number, complexity, and cost of government regulations impose a significant burden upon small businesses; and

WHEREAS, special consideration should be given by executive agencies to the needs, demands, and limited resources of small businesses as such agencies develop, promulgate, amend, and repeal regulations that may affect small businesses;

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

Section 1. In this order: (1) "Agency" shall mean any agency, department, board, commission, authority or other body within the Executive Department under the Governor's supervision; and (2) "regulatory action" shall mean the adoption, repeal or amendment of any rule or regulation subject to chapter 30A of the General Laws.

Section 2. Prior to taking a regulatory action, agencies shall thoroughly review draft regulations to assess and take appropriate account of the potential impact of such regulations on small businesses, and shall, consistent with the purpose of the regulations and applicable law, formulate and revise such regulations in a manner that (1) makes them readily accessible and useable by small businesses, (2) eliminates any unnecessary or duplicative costs, filing requirements, paperwork burdens, or other

administrative requirements that may have a negative impact on small businesses, and (3) provides cross-references to related regulations and other relevant legal authorities.

Section 3. Each member of the Governor's Cabinet shall select one or more individuals from among the agencies within his or her purview to act as small business liaisons. Each such small business liaison shall, within the area of responsibility designated by the Cabinet member, ensure agency compliance with the requirements of this order, coordinate and communicate with the Executive Office of Administration and Finance ("Administration and Finance") and the Small Business Advocate, as established in Section 4 of this order, regarding small business concerns or issues, and communicate and receive input from small businesses and small businesses groups and organizations, where appropriate.

Section 4. The Secretary of Economic Development shall designate an employee of the Commonwealth to serve as Small Business Advocate ("Advocate"). As set forth in sections 6, and 7 of this order, the primary function of the Advocate shall be to ensure that the needs and interests of small businesses are properly voiced and taken into account prior to an agency taking a regulatory action.

Section 5. An agency that seeks to take a regulatory action that may significantly affect small businesses shall complete a Small Business Impact Statement as part of the regulatory review information provided to Administration and Finance for purposes of complying with the review and approval requirements of Executive Order 384. Such Small Business Impact Statement shall be simultaneously submitted to the Small Business Advocate, accompanied by a draft of the proposed regulations. Such Small Business Impact Statement shall contain the information required by paragraph 2 of section 5 of chapter 30A of the General Laws as well as a summary of the proposed regulatory action. Such Statement shall also describe: (1) the impact that the regulatory action may have on small businesses, if any; (2) whether, and to what extent, the regulatory action will increase or decrease the costs of small businesses seeking to comply with the affected regulatory scheme; (3) whether, and to what extent, small businesses will likely bear greater costs than other businesses in complying with the regulatory action; (4) whether there are alternative methods for accomplishing the objectives of the regulatory action that might be less burdensome to small businesses, and why such alternatives were not pursued; (5) whether it is possible to establish less stringent requirements for small businesses or to exempt small businesses from all or any part of the requirements; and (6) whether the regulatory action is mandated by statute, federal policy or some other authority.

Section 6. Upon receiving an agency's Small Business Impact Statement, the Advocate shall, where appropriate, provide comments to Administration and Finance and to the agency concerning the Advocate's assessment of the potential implications to small businesses of the proposed regulatory action and whether the promulgating agency has satisfactorily considered and accommodated small businesses in its proposed regulatory action. The Advocate may propose refinements or alternatives to the draft

regulations that are designed to decrease the burden of the regulatory action on small businesses.

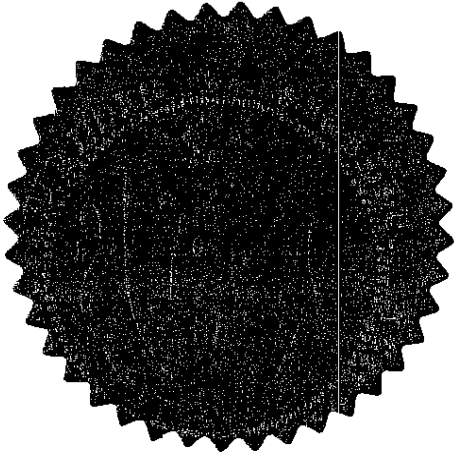
Section 7. In performing its duties under section 6, the Advocate may elicit views and information from, and shall serve as a point of contact for, small businesses, small business organizations and associations, state and federal agencies and other parties who have comments, objections or opinions concerning proposed regulatory actions. The Advocate shall, where appropriate, convey such views and information to the small business liaisons and to Administration and Finance. In addition, the Advocate, through the appropriate small business liaison, may make inquiries and seek information from the agency proposing a regulatory action, which agency shall timely and fully respond to such inquiries and requests.

Section 8. With reference to the agency's Small Business Impact Statement and the Advocate's comments, if any, concerning a proposed regulatory action, Administration and Finance may reject or require amendments to draft regulations if Administration and Finance determines that an agency has not satisfactorily considered and accommodated the interests of small businesses in proposing a regulatory action. Administration and Finance's review of proposed regulatory actions pursuant to this order may be made in conjunction with its general review of regulatory actions under Executive Order 384 and shall not require any separate written determination, comments, or responses concerning small business impacts.

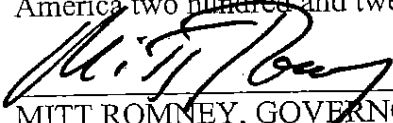
Section 9. In addition to commenting upon proposed regulatory actions, the Advocate may also review current regulations and make recommendations to agencies to change current regulations that may be having an unduly negative impact on small businesses. An agency receiving such recommendations shall respond to the Advocate as to whether it intends to pursue the Advocate's recommendations and, if it does not intend to pursue such recommendations, shall meet with the Advocate to discuss the recommendations and potential alternative methods of mitigating the identified negative impact.

Section 10. Agencies may initiate emergency regulatory actions under relevant sections of chapter 30A of the General Laws without prior compliance with this order, provided that compliance shall be initiated as soon as practicable following the emergency action and, in any event, prior to making any emergency action permanent.

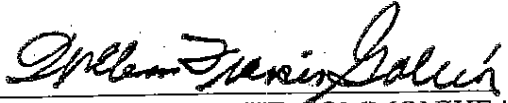
Section 11. This order shall take effect on September 25, 2003; provided, however, that it shall not apply to proposed regulatory actions that have already been submitted to Administration and Finance for review and approval pursuant to Executive Order 384 or to regulatory actions where any formal action has already been taken pursuant to chapter 30A of the General Laws.



Given at the Executive Chamber in Boston
this 25 th day of September in the year
our Lord two thousand three, and of the
Independence of the United States of
America two hundred and twenty seven.



MITT ROMNEY, GOVERNOR
Commonwealth of Massachusetts



SECRETARY OF THE COMMONWEALTH
WILLIAM FRANCIS GALVIN

GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS