



MATTHEW G. BEVIN
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2018-905
November 15, 2018

RELATING TO THE PROHIBITION OF DISCRIMINATORY
BOYCOTTS AGAINST ISRAEL AND OTHER TRADE PARTNERS
IN STATE CONTRACTING

WHEREAS, Israel is a critical and invaluable ally of the United States and a faithful friend of the Commonwealth of Kentucky; and

WHEREAS, Israel is currently the target of a boycott that threatens its sovereignty and security; and

WHEREAS, the Commonwealth of Kentucky does not support boycott-related tactics that are used to threaten the sovereignty and security of Israel or other allies of the United States or the Commonwealth of Kentucky; and

WHEREAS, boycotts based on religion, national origin, ethnicity, or residence amount to invidious discrimination; and

WHEREAS, the Boycott, Divestment, and Sanctions (BDS) movement against Israel amounts to such discrimination and serves to inflame conflict; and

WHEREAS, the Commonwealth of Kentucky unequivocally rejects the BDS movement and stands firmly with Israel; and

WHEREAS, the Commonwealth of Kentucky benefits from open trade with other nations, including Israel; and

WHEREAS, in 2017, the Commonwealth of Kentucky exported \$30.9 billion in goods to the world, thus making Kentucky the seventeenth largest state exporter of goods;



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WHEREAS, nearly 150,000 jobs in the Commonwealth are supported by the ability to export goods throughout the world; and

WHEREAS, Congress has long declared that it is the policy of the United States to encourage trade with all countries with which the United States has diplomatic or trading relations, to oppose certain restrictive trade practices and boycotts, and to prohibit United States persons from taking certain actions that could foster or support restrictive trade practices such as boycotts; and

WHEREAS, the ability to engage in free trade, and thus promote the prosperity of Kentucky's economy and citizens, may be limited or hindered by restrictive trade practices such as the BDS movement and other discriminatory boycotts; and

WHEREAS, the free trade agreement entered into between the United States and Israel in 1985 was the first free trade agreement entered into by the United States, and it continues to serve as the foundation for expanding trade and investment between the United States and Israel; and

WHEREAS, Israel and the Commonwealth of Kentucky enjoy a robust trading relationship that includes almost \$85 million in goods and services that Kentucky exported to Israel in 2017; and

WHEREAS, the Commonwealth of Kentucky requires certain contractors and subcontractors performing work under a contract with the Commonwealth to certify compliance with a variety of laws, including laws prohibiting discrimination; and



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WHEREAS, in 2016, the Kentucky House of Representatives adopted House Resolution 250, which declares the House of Representatives' opposition to the BDS movement; and

WHEREAS, the Commonwealth of Kentucky should take action to protect its trade relationships, and thereby the welfare of its citizens and economy, and to renounce restrictive trade practices based upon discrimination, such as the BDS movement:

NOW, THEREFORE, I, Matthew G. Bevin, Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by the Kentucky Constitution, Sections 69 and 81, do hereby Order and Direct the following:

- I. For the purposes of this Order, the following definitions shall apply:
 - A. "Boycott" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with, a jurisdiction with which Kentucky can enjoy open trade, or with a person or entity doing business with a jurisdiction with which Kentucky can enjoy open trade, but does not include an action taken for bona fide business or economic reasons or a boycott that is specifically required by federal or state law;
 - B. "Contract" is defined by KRS 45A.030(8);
 - C. "Contractor" means any person having a contract with a governmental body;
 - D. "Governmental body" means any department, commission, council, board, bureau, committee, institution, body, agency, governmental corporation, or other establishment of the executive branch of Kentucky state government; and



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by the contractor that the contractor is not currently engaged in, and will not for the duration of the contract engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which Kentucky can enjoy open trade.

- III. A governmental body shall reserve the right to terminate a contract with a contractor for a false representation of a matter required in Part II of this Order or for engaging in a boycott of a person or an entity based in or doing business with a jurisdiction with which Kentucky can enjoy open trade during the duration of a contract.
- IV. A request for proposal, invitation to bid, or other document issued by a governmental body with the intent of soliciting responses for the potential award of a contract shall include notice of the requirements of this Order and any applicable requirement created in response to Part V of this Order.
- V. The Secretary of the Finance and Administration Cabinet is directed to take action to ensure that the provisions of this Order are carried out, including through the promulgation of administrative regulations pursuant to existing statutory authority, the creation of new policies or procedures, and the modification of any standard language in a contract, request for proposal, or other procurement document, as appropriate.
- VI. This Order shall apply to contracts entered into beginning January 1, 2019.
- VII. If any provision of this Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of the Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Order are severable.
- VIII. The Secretary of the Finance and Administration Cabinet shall oversee this Order to ensure that it is implemented as quickly and efficiently as possible.