

Our next presentation is on Executive Order 18-03. [Garbled]

[Greg Tolbert:] We lost like half the room! First, thank you for taking the time to be here. We genuinely appreciate you guys spending your life energy to come here and participate in helping Enterprise Services deliver procurement policies that help you guys operationalize what you do. Clearly, there's a lot of wisdom in a room like this. And whenever we get three people in a room I'm always worried because at least two of them can fire me. So let's try to get through this. All of these materials are available on the policy Web site, so you don't have to furiously take notes. You can just download the presentation at your leisure. This slide here is also available if you go to DES, it's on our contracts and procurement page underneath policies and training and resources, and we have all of the resources that we've ever done for EO 18-03, including the statewide presentations that we did earlier.

Here's our agenda for today. There's a lot of research out there that smart people thinking groups of three know Steve Jobs was famous for that. And you do it because you hear these things like 9 1 1, duck and hide, do your homework, that wasn't me. So I had to figure out how to put our 10 points into a three point agenda. But as we go through this at least you guys will see that oh we're getting close to being done. Our goals here today are very simple. We want to review the executive order, identify what we've accomplished, and chart out the path of front of us.

But before we get there, we had a lot of people that took their time from our customer agencies to help us develop this procurement policy in a way that we thought would help all of the customer agencies. They're listed here and several of you are here today. And so on the break, our director Chris Liu has a recognition note for you and a small gift. We'll try to hand those out to you. And, we also had some internal people who helped out a lot on developing these tools as well as developing the training that you'll see at the end of this program.

Here is the EO. We're going to quickly move through this. It's also available on the Web site resources that we mentioned. The policy one you can pull it down. It's two pages. It's also available in the Governor's office. It has, page one are the recitals. This is the table-setting language that explains what the EO is trying to accomplish. It operates from this premise: that employees have limited ability to bargain with their employers. That without the ability to have class or group representation on grievances, the playing field isn't fair and that the recent Supreme Court decision, the *Epic* decision, which also is available on our Web sites, it will make it more difficult for employees to advance these grievances. These are just workplace agreements. It's not like you have some fight with your neighbor or some other contract dispute, but it's things like "I'm not getting paid properly" or "my boss is sexually harassing me." This is what this EO is designed to deal with.

Page 2. These are the operational provisions. The good news for this presentation is that there's just two, and we're going to talk about both of them. The highlights though. It's like all executive orders, effective immediately, it's forward looking, does not look at what happened in the past. It imposes a couple of obligations and again, we'll talk about each of those – but before we do that, a quick note on executive orders. We talked about this in the statewide training that we did earlier for this. But there are three types of executive orders. This EO, EO 18-03, is type number 2. It has no independent force of law. It is directional and aspirational to agency leaders. Now of course, for the agencies that are covered, they serve at the pleasure of the Governor. And he is expecting their report on what these agencies have done to implement this executive order. It falls into what at

Enterprise Services we refer to as state procurement priorities. Now this should come as no surprise, but policymakers often view procurement as a way to implement policy.

Well, we heard about that with the Direct Buy, and how we would then deal with certain groups of vendors. This is also one of those. Now, there's lots of ways to characterize these, but there are three buckets. One is the vendor. Do you look like this type of a vendor? Are you a small vendor? Are you Correctional Industries? The second one looks at the products. Is this a blind-made product? Is this a product without PCBs? And the third looks at socio-economic factors. Hey, are you a wage thief who is not paying your employer's employees? Do you engage in pay equality, or do you make someone doing the same job get 80 percent of the dollar that the other guy might get? And then here's another example that we're going to talk about today: the EO 18-03 mandatory arbitration requirements and collective or class action waivers.

As I mentioned, the EO has two categories. So let's talk about number two, which is agency leadership. Now, this is what it says and those are lots of words but it does say "shall" three times. So, how to think about that. It gives Enterprise Services three obligations, and we know the Governor was serious about this because he used grown up words, right? "Shall" do this, "shall" do that – that gets your attention. But the first thing is that we are entrusted and obligated to administer the Executive Order. And that's because where the central procurement agency. We're also to collaborate in the implementation of that, to get the best practices – because if you have a roomful of smart people, tap into that expertise and do better. And third, a report is due and we know the Governor is serious about this because they put a date in there that we have to report the results of what we're doing.

How do we go about doing this? It's this simple, right? It's communicate, collaborate, and create value. So for communication, we began with doing some stakeholder work initially. We had a couple of statewide presentations about this, where we articulated the vision and the plan. And then we worked with some of the volunteers that you saw earlier today to implement this. That collaboration has been ongoing since last July. And to create value: we have tried to listen to these customer agencies – because this is no surprise – the DSHS is a lot different from SIB, right? They're different sizes. They procure things differently. And if we're developing enterprise procurement policies, we have to be tuned into that reality. We also need to provide directional clarity, right? Now – like a pirate ship captain, you need to know that – did you know that those guys had a cost distribution before we did? There's a fantastic economics book about it, it's about the [Garbled]. And they never made people walk the plank because you would never have any good workers there. That would be a worker problem. They did drop you off on a deserted island, but they had directional clarity. Everybody on that ship knew exactly what was going on. And if you're going to have policies to be cost effective, and efficient, and optimize the function of government, that's important. And we developed templates and tools so that it made it easier, so we can lower the cost of government and have agencies focus on their core mission.

So, procurement procedures. This is Section 1 of the obligations. Again, lots of words. But here, you do not see your words like "shall", you see discretionary words like, "to the extent permissible." Now, again, lots of words but remember, the EO is a directive, but it's aspirational. It applies to certain agencies – state executive agencies – which are highlighted on our website, and small cabinet agencies. Other agencies are not under this, but they could always implement this in their procurements. It covers purchasing and procurement, and it says, "shall seek the contract." The contract does not say "must", but it

is aspirational so: "shall seek the contract." There is some discretion here, and common sense.

If you have an economics background, you might think of "Pareto optimality." Now, he was a great guy. Vilfredo Pareto. He was an economist and a philosopher in Italy in 1848, to the early 1900s. Weren't all of these economists philosophers? He had a big mathematical program for how you got to – what became known as the "80/20 rule." And, it was because he grew peas in his garden, and he would look out there and he would plant all these pea pods. And he would notice 20 percent of my pea plants are generating 80 percent of my production. You may have noticed that in your life as well: 20 percent of my work, my employees, my efforts, are generating 80 percent of the outcome. And that's what we get at – on this type of policy. Is that, where the costs of implementing that policy are ridiculously high – the juice isn't worth the squeeze – reasonable people wouldn't do it. You would seek to make a difference in how you apply this, because there are some obvious examples. Is it feasible – like if you are buying a state ferry, you are told how to do it. You don't have to worry about that. If it's an emergency, nobody's going to stop to take time to figure out if you're doing this, because the forest is on fire. But on balance if there's discretionary on the Direct Buys – which we'll get to in a moment – you would apply this if you could make a difference.

How have we developed these policies? The collaborative implementation roadmap. So the Director of Enterprise Services doesn't issue executive orders; the Governor does that. Our task is to figure out how to do this to operationalize the Governor's vision. So, we had to come up with a plan. And then thinking about this we thought about one of our early entrepreneurs in America: Benjamin Franklin. But if you read about this guy, he could make a mule skinner blush. How he approached these things: it's the same here. Figure out a plan, and then try to execute that in a value added way, that improves the customer experience. So we had to come up with a plan.

It almost looked like this, but we came up with a slightly better one and I'll show you that in a moment. Here though, let's revisit where we've been. This is the timeline of the journey that we've been on. We started out in June with the EO. We had a lot of internal stakeholdering with the Governor's office and the A.G. We had our statewide stakeholder sessions. We had our work teams. We had some policy development and training tools that I think the training has knocked it out of the park. It is very short; very value added. And today we are right here. So like if you were at Disney World, you could literally see the gift shop.

Here is the action plan. This is how we've approached many of the things that we do with Enterprise Services. And you'll note that it has a continuous improvement theme. We began with engagement. We involved our stakeholders. We collected the information with an eye toward effective implementation for the stakeholders. We built work products that we thought could improve that value proposition. We reported out earlier and we are reporting again here today to see if we can improve this. And then is coming implementation, and continuous improvement. So again, we're right there.

So when we were looking at this earlier this year, about how to involve stakeholders, we said, "hey, we need to involve some people because that will improve the customer experience." We don't know what we don't know, and let's figure out from the minds of people who are smarter and certainly closer to the problem, how to address this. I mean seriously, we think about this. You hear about the big three here. And one of them is the customer experience. And if it's not green, nobody here is happy. So that is an important

point for us. So, we needed volunteers. This is a lot. There were no snacks. So today there are snacks. So at least that's an improvement. Right. But we did not do it this way. We just put out a sign and you saw earlier the people that said, "Hey, let me take a leap of faith and volunteer our time." There were several meetings and they contributed. The volunteers included representatives from each of these agencies. They had an effort in sharpening our saw on this.

Our vision that we put out for how to get to "done" was this plan. It's a little bit dressed up from that earlier one but we divided the problem into three things. The policy, the practical tools, and how to deal with reporting. So with policy, our mission here was to develop, with stakeholder collaboration, the elements of a procurement policy that would enable covered agencies – which includes us – to implement the EO effectively and efficiently. The practical tools – the mission here was to identify and develop, again with stakeholder collaboration, common practical flexible tools that people can use to implement the EO for competitive procurements and then as reasonably practical, Direct Buy purchases. And the reporting plan: the obligation here was – I hear that government asks for lots of reports and people aren't very keen on doing them. So the reporting plan here was how can we do this to get the data that we want to see if we are actually moving the dial or – and to do that so that it has the least cost to agencies, so you don't have to have a separate report.

Well, our proposed implementation went like this: we began with prioritization of how to, you know, figure out how to eat this elephant, and then these things. So, on prioritization, the EO does not mandate that we have to cover every single purchase. We have some discretion. And so this becomes a – is it in all strategy, or is it a prioritized strategy? And, with the help of our stakeholders, we agreed on a prioritized strategy, which starts with procurements for goods and services, and does not start with these others: Public Works, Real Estate, Financial. And there are a couple of common sense reasons for this. Most agencies procure or purchase goods or services. Not every agency does public works. Second, there are more vendors for goods and services than there might be for financial transactions. And third, the marketplace out there. There is a lot of logic that says that if you are a smaller firm, you're less likely to have the type of practices that the EO is trying not to spend our money on. And so, this was an approach that we could use to optimize this.

The scope deals with how far. And so, what we did was – clearly it is going to be competitive procurements: the ones that we do for ourselves; the ones that covered agencies do; and of course, our master contracts that we would implement this in – and that way, anyone who used our master contract would be able to say, "Yes, I'm in alignment with 18-03." And then we also rolled in Direct Buy as a discretionary opportunity. Remember our pea-growing friend, Pareto – that if the juice is worth the squeeze, do this; if you are buying something for five dollars, probably not. But, if you're buying something for \$13,000 or \$40,000, maybe this makes sense as a differentiator between two different vendors. So the practical tools – the goal here, of course, was to develop common flexible tools that enabled agencies to do their work. There are a couple of hurdles. Not every agency purchases things in the same fashion, they purchase it differently, and we need to allow for the fact that some agencies do huge procurements and other agencies never do those things. Their only spend is Direct Buy, or off of master contracts. So that is why we wanted to have the discretionary ability so they could say, "Hey, look at us. We are implementing this EO too. It's just that we don't have these multi-million dollar IT contracts.

So, we resulted in – now it's working! This morning when I was testing this, this did not work properly. We came up with several different tools. These are all referenced in the

very short and value added training that we've got. There are contractor certifications because you do not want to get suckered by these vendors: "Hey, do you have this, Yes or No? Fill this out, but have it be a simple form." Because we heard earlier this morning that there are in it inadvertent access barriers to some of these small businesses like a 30 million dollar insurance requirement for a three thousand dollar contract that probably doesn't make any sense, unless you're accessing our networks. So we have a contractor certification for a competitive procurement. We have a vendor certification where it makes sense for Direct Buy procurements. We have FAQs already lined out not only for agency leaders, but to share with your contracting staff so that there is less confusion and more directional clarity about what we're trying to accomplish. And most importantly, we have a training program that ties all of this together and you'll see that in a moment.

So the reporting plan – this to be sure was a friction point, right? People are not very keen on one more report when we – but here are a couple of hurdles that we have in Washington. We do not have a single e-procurement system. This is not Virginia, right? So we have to figure out a way until that happens of how to do this efficiently. And also, if we only look at outcome, we would overlook the agencies that invest a lot of work on effort. And so we wanted to figure out a way to measure both. Are you trying to implement this EO? And if so, then what is the outcome or results. So, we started with that as our reporting focus. We figured that everybody uses WEBS for their competitive procurement, because that's a statutory requirement, right? And so that would be the solution, but currently it does not allow for this. So, it involves some agency effort here and here, so that we can develop this WEBS functionality. And so we've had people working on that in the last couple of months to make sure that we can do that. So that if you run a competitive procurement, there will be a box to check as to whether you are implementing the state procurement priority. When you get to the award phase, the outcome, it will either be a vendor who got the benefit of that preference, or it'll be a different vendor who may have had a better value proposition and was able to overcome that preference. And that will also be reported. But agencies don't have to go out and do a separate reporting stream. It will be in WEBS. For those that use our master contracts, we can collect that spend through our master contracts. And that is the results that I just mentioned.

So, policy development. Again we had some goals here, which was to develop a policy that was simple; had directional clarity; and allowed agencies to focus on implementing their mission. There were lots of hurdles, right? Because no two agencies are alike. And we need to define the difference on the competitive procurements, which it is mandatory for, and the Direct Buy procurements, which it's discretionary for – the Peapod procurements, right? The preference is capped at 5 percent because we don't need people to say, "Oh! It's 95 percent!" No. Five percent. Because remember, there are other state procurement priorities out there as well – not purchasing products with the PCBs. Some of our vendors. And so the results – we wanted a policy that made it clear which agencies were covered – the executive and the small cabinet. How to measure effort: go to WEBS, identify that in the procurement. How to measure outcome: again in WEBS, much like we do for all competitive procurement. And then for the Direct Buy transactional ones you have the opportunity also to signal that there. And so as part of the tools that you have available now is the draft policy. And if there are ways to improve that, we want to hear those ways.

But what have we learned? We learned that training is critical right. Because we can't have different agencies doing things differently. We are limited to how many of these US viewpoint these folks that eliminating or from your computer. And we have Sunday Delgado folks training guru. She works her magic here on putting together these programs so that

you don't have to list long winded people like me. You think they're compatible. Yes. My name is Sunday and I didn't know I was going to be up here. Usually they try and keep me hidden behind my computer. I'm just the training person. I take his Tolstoy novel and try and you know turn it into a picture book. Yeah I do. Thank you you can go online and pick up really it's just been everything. But with a picture. You can't hear it? I'm sorry. All right. [playing training video, which cannot be heard by audience] I tell you what, for every single one of these things, we have a technical problem. You cannot hear so next steps. What are we not going forward now.

Next steps. So now we are at, for enterprise services, we have a few things left to do. But many of these things are what we would call "done", or we can see the gift shop, right? One is continuously improve. You're never done with what is new, or better ideas emerge. We have to have a mindset that we can implement those effectively. We have modified WEBS, which you will see in the training thing, so that there will be pull-down menus so that you can get – if you can put in that you are aligning with the EO 18-03 with your competitive procurement, and then you can report the results.

We, ourselves, and you'll see this in a moment in enterprise services, have been running pilots to see if this actually works with the contractor certification language, the contract clauses – because we'll ask for representations and warranties from our vendors that they actually do meet this and we can terminate the contract if they don't. We've been doing that, and you'll see those results in just a second. And then we have to do a report for the Governor which is not due until July 1. And then we'll continue to communicate with our customers and the vendor community, collaborate, and create value.

Now for our agencies that are here. It's very simple, right? Again, three points – because Steve Jobs, right? Engage. We've made these tools available, if they can be improved let us hear them. There is training, I swear to God. This may not be able to be improved. It is spot on. There is the implementation side. They are amazing over there. We have, for the competitive procurements - it's do that, right? Put this in there, it is a state procurement priority that you can use to differentiate amongst vendors. And then for the Direct Buy, it's Pareto: does it make sense? Is it reasonably practicable? And then for our master contract usage, we can do that through our reporting.

So, the pilots. And here are two pages of pilots that Enterprise Services has done for the master contracts that we do, as well as one internal contract where it's just for our own purposes. And you can see the preference, that's the second column there, how many points we allow. In no case did we exceed 5%, and in a couple it was less than 5%. The solicitation column then many of the vendors who participated in the procurement how many were able to positively certify alignment with the EO and as you can see almost everybody did. And then the last column is award. Did we award the contract to a vendor that is obligated to comply. No. And again on this side every single one. We also have a bunch of slides on procurements out there with slides too but we have other procurements out there. These we have not gotten to the award stage or getting the bids in yet but these are in the works. So, but on all of these we've also added that differentiator. Any questions? Concerns? Copies of all these materials are available on the policy team's Web site. All the resources are there. I highly encourage you to look at the training video. It's only about four, four and a half minutes long. Less painful than this. And it is spot on. If we can improve it, we want to hear about that so that we can do it. And again, everybody here, I know our management team is very grateful that you're taking your time to participate and help us improve. That's how we do it.