



The Commonwealth of Massachusetts General Court

April 22, 2024

Interim Commissioner Shawn Jenkins
Massachusetts Department of Correction
Central Headquarters
50 Maple Street
Milford, MA 01757

General Counsel Nancy White
Massachusetts Department of Correction
Legal Division
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Boston, MA 02110

Executive Director Carrie Hill
Massachusetts Sheriffs' Association
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RE: Re-Procurement Needed for Incarcerated Persons Communication Services System

Dear Interim Commissioner Jenkins, General Counsel White, and Executive Director Hill,

On August 9th, 2023, Governor Healey's FY24 budget included legislation that fundamentally altered the way that incarcerated persons communicate with their family and friends. Within that budget, Massachusetts passed the broadest "No Cost Calls" provision in the Nation. Those incarcerated in both State and County facilities no longer have to pay for voice calls, video calls, or e-messaging services — communication that is proven to reduce recidivism rates. However, due to the short time between the enactment of "No Cost Calls" on August 9th, 2023, and its effective date of December 1st, 2023, the Massachusetts Department of Correction ("DOC") only had time to amend the current contract for incarcerated persons communication services ("IPCS") to reflect these new statutory obligations.

We thus write to encourage the DOC to initiate a re-procurement process for IPCS to ensure that the Commonwealth is providing its incarcerated population with robust communications services, keeping with the spirit of the new law. By engaging in a re-procurement process, the Commonwealth will be able to ensure that the best IPCS is delivered at a responsible cost to the Commonwealth.

The statutory language in the Massachusetts General Laws¹ indicates that all provisions of the existing contract shall remain undisturbed, including the Commonwealth's Terms and Conditions which set forth the ability to terminate the contract at any time without cause or penalty.² As such, the statute should not impact the ability of the Commonwealth to engage in a new Request for Response (RFR) process to re-procure IPCS.

Given the different ways that people communicate with one another in the 21st century, we believe a re-procurement process for the contracts administered under the No Cost Calls legislation is an incredible opportunity to take advantage of the many companies and services, both non-profit and for-profit, able to serve incarcerated people and their loved ones with modern communication infrastructure and technology, including phone calls, video communication, Wi-Fi, internet, and text messages.

¹ [Acts \(2023\) Chapter 64, An Act Providing For Unlimited Free Phone Calls to Incarcerated Individuals.](#)

Section 2(a) **Notwithstanding any general or special law to the contrary, no voice communication services contract in force on the effective date of this act shall be affected by section 87A of chapter 127 of the General Laws, as inserted by section 1;** provided, however, that voice communication services shall be free of charge to the person initiating and the person receiving the communication beginning on December 1, 2023; provided further, that other communication services offered pursuant to said section 87A of said chapter 127, including, but not limited to, video and electronic communication services, shall be offered free of charge to the person initiating and the person receiving the communication beginning on December 1, 2023.

(b) **Notwithstanding any general or special law to the contrary, upon the expiration of any contract for voice communication services, the department of correction and the sheriffs shall seek to maximize purchasing power and consolidate contracts to the extent feasible;** provided, that not later than January 1, 2024, the department of correction and the sheriffs shall report to the house and senate committees on ways and means and the joint committee on the judiciary on the status of any communication services contracts and plans to consolidate contracts to maximize purchasing power for voice communication services.

² **The Commonwealth's Terms and Conditions can be found [here](#). Page 1 states the conditions for termination:** *Contract Termination Or Suspension. A Contract shall terminate on the date specified in a Contract, unless this date is properly amended in accordance with all applicable laws and regulations prior to this date, or unless terminated or suspended under this Section upon prior written notice to the Contractor. The Department may terminate a Contract without cause and without penalty, or may terminate or suspend a Contract if the Contractor breaches any material term or condition or fails to perform or fulfill any material obligation required by a Contract, or in the event of an elimination of an appropriation or availability of sufficient funds for the purposes of a Contract, or in the event of an unforeseen public emergency mandating immediate Department action. Upon immediate notification to the other party, neither the Department nor the Contractor shall be deemed to be in breach for failure or delay in performance due to Acts of God or other causes factually beyond their control and without their fault or negligence. Subcontractor failure to perform or price increases due to market fluctuations or product availability will not be deemed factually beyond the Contractor's control.*

To add further context to the need for this re-procurement, the current contract began on March 2nd, 2018, and was extended to March 2nd, 2028 in December 2018. Since 2018, in addition to enacting this new law, we have experienced a global pandemic that has fundamentally changed how we communicate. The pandemic necessitated the rapid evolution of communication technology and modalities. Video calls became the norm, creating a significant reliance on broadband communications. Given such fundamental changes, it is incumbent upon the Department to re-procure its IPCS to ensure that the services provided reflect the advancements in communication technology and methods that have increased our ability to connect. Those same technologies and methods need to be provided to our incarcerated population.

We welcome the opportunity to continue discussing this issue with you. Thank you for your consideration and all you do in service to the Commonwealth.

Sincerely,

Senator Jamie Eldridge
Middlesex and Worcester District
Senate Chair, *Criminal Justice Reform*
Caucus

Senator Cindy Friedman
Fourth Middlesex District

Senator Pavel Payano
First Essex District

Representative Margaret Scarsdale
1st Middlesex District

Representative Kay Khan
11th Middlesex District

Representative Danillo Sena
37th Middlesex District

Representative Ruth Balser
12th Middlesex District

Representative Mary Keefe
15th Worcester District
House Chair, *Criminal Justice Reform*
Caucus

Senator Sal DiDomenico
Middlesex and Worcester District

Representative Lindsay Sabadosa
1st Hampshire District

Representative Natalie Higgins
4th Worcester District

Representative Antonio F. D. Cabral
13th Bristol District

Representative Jay Livingstone
8th Suffolk District

Representative Vanna Howard
17th Middlesex District