

April 29, 1980

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503**

**OFFICE OF FEDERAL
PROCUREMENT
POLICY**

April 29, 1980

POLICY LETTER 80-4

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Women's Business Enterprise Program

Background - Executive Order 12138 noted that Congressional findings and the findings of the Interagency Task Force on Women Business Owners recognize:

1. the significant role which small business and women entrepreneurs can play in promoting full employment and balanced growth in our economy;
2. the many obstacles facing women entrepreneurs; and
3. the need to aid and stimulate women's business enterprise.

In response to these findings, the Executive Order established a National Women's Business Enterprise Policy and prescribed arrangements for developing, coordinating and implementing a national program for women's business enterprise. Each department and agency was directed to take affirmative action in support of women's business enterprise in appropriate programs and activities including, but not limited to, procurement.

The President's Memorandum for the Heads of Departments and Agencies dated May 18, 1979, accompanying E.O. 12138, noted that the Interagency Task Force on Women Business Owners found that efforts to encourage full participation of women in Federal procurement activity have been less than adequate. Subsequently, OFPP undertook to establish agency goals for the award of prime contracts to women-owned firms and to develop Government-wide procurement regulations to encourage Federal prime contractors to increase their use of women-owned firms as subcontractors.

Action - There is a need in Government for uniformity and consistency in the application of procurement policy. This directive provides a uniform policy applicable to the Women's Business Enterprise Program. The clauses and regulatory coverage that follow articulate this uniform policy. The Defense Acquisition Regulation (DAR), the Federal Procurement Regulations (FPR), and the National Aeronautics and Space Administration Procurement Regulations (NASA PR) shall be amended to conform to this policy.

CLAUSES FOR WOMEN-OWNED BUSINESS CONCERNS

1. The following clause shall be included in all contracts expected to exceed \$10,000 except (i) contracts which, including all subcontracts thereunder, are to be performed entirely outside the United States, its possessions, Puerto Rico and the Trust Territory of the Pacific Islands, and (ii) contracts for services which are personal in nature.

UTILIZATION OF WOMEN-OWNED BUSINESS CONCERNS (Over \$10,000)

(a) It is the policy of the United States Government that women-owned businesses shall have the maximum practicable opportunity to participate in the performance of contracts awarded by any Federal agency.

(b) The Contractor agrees to use his best efforts to carry out this policy in the award of subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, a "woman-owned business" concern means a business that is at least 51% owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management. "Women" mean all women business owners.

(End of Clause)

2. The following clause shall be included in all contracts, amendments or modifications expected to exceed \$500,000 or in the case of contracts for the construction of any public facility, \$1,000,000 which require the Utilization Clause in (1) above.

WOMEN-OWNED BUSINESS CONCERNS SUBCONTRACTING PROGRAM
(Over \$500,000 or \$1,000,000 for Construction of Any Public Facility)

(a) The Contractor agrees to establish and conduct a program which will enable women-owned business concerns to be considered fairly as subcontractors and suppliers under this contract. In this connection, the contractor shall:

(1) Designate a liaison officer who will administer the Contractor's "Women-Owned Business Concerns Program."

(2) Provide adequate and timely consideration of the potentialities of known women-owned business concerns in all "make-or-buy" decisions.

(3) Develop a list of qualified bidders that are women-owned businesses and assure that known women-owned business concerns have an equitable opportunity to compete for subcontracts, particularly by making information on for the coming opportunities available, by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of women-owned business concerns.

(4) Maintain records showing (i) procedures which have been adopted to comply with the policies set forth in this clause, including the establishment of a source list of women-owned business concerns; (ii) awards to women-owned businesses on the source list by minority and non-minority women-owned business concerns; and (iii) specific efforts to identify and award contracts to women-owned business concerns.

(5) Include the "Utilization of Women-Owned Business Concerns" clause in subcontracts which offer substantial subcontracting opportunities.

(6) Cooperate in any studies and surveys of the Contractor's women-owned business concerns procedures and practices that the Contracting Officer may from time-to-time conduct.

(7) Submit periodic reports of subcontracting to women-owned business concerns with respect to the records referred to in subparagraph (4) above, in such form an manner and at such time (not more often than quarterly) as the Contracting Officer may prescribe.

(b) The Contractor further agrees to insert, in any subcontract hereunder which may exceed \$500,000 or \$1,000,000 in the case of contracts for the construction of any public facility and which offers substantial subcontracting possibilities, provisions which shall conform substantially to the language of this clause, including this paragraph (b), and to notify the Contracting Officer of the names of such subcontractors.

(c) The contractor further agrees to require written certification by its sub contractors that they are bona fide women-owned and controlled business concerns in accordance with the definition of a women-owned business concern as set forth in the Utilization Clause 1(b) above at the time of submission of bids or proposals.

(End of Clause)

EFFECTIVE DATE: This Policy Letter is effective June 1, 1980, and shall be applicable to all solicitations, and contracts arising therefrom, issued after June 1, 1980.

CONCURRENCE: This Policy Letter has been concurred in by the Director of OMB.

Karen Hastie Williams
Administrator

Policy Letter 80-4