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Executive Order 11625--Prescribing additional arrangements for developing and coordinating a national program for minority business enterprise

Source: The provisions of Executive Order 11625 of Oct. 13, 1971, appear at 36 FR 19967, 3 CFR, 1971-1975 Comp., p. 616, unless otherwise noted.

The opportunity for full participation in our free enterprise system by socially and economically disadvantaged persons is essential if we are to obtain social and economic justice for such persons and improve the functioning of our national economy.

The Office of Minority Business Enterprise, established in 1969, greatly facilitated the strengthening and expansion of our minority enterprise program. In order to take full advantage of resources and opportunities in the minority enterprise field, we now must build on this foundation. One important way of improving our efforts is by clarifying the authority of the Secretary of Commerce (a) to implement Federal policy in support of the minority business enterprise program; (b) provide additional technical and management assistance to disadvantaged businesses; (c) to assist in demonstration projects; and (d) to coordinate the participation of all Federal departments and agencies in an increased minority enterprise effort.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

Section 1. Functions of the Secretary of Commerce. (a) The Secretary of Commerce (hereinafter referred to as "the Secretary") shall--

- (1) Coordinate as consistent with law the plans, programs, and operations of the Federal Government which affect or may contribute to the establishment, preservation, and strengthening of minority business enterprise.
- (2) Promote the mobilization of activities and resources of State and local governments, businesses and trade associations, universities, foundations, professional organizations, and volunteer and other groups towards the growth of minority business enterprises, and facilitate the coordination of the efforts of these groups with those of Federal departments and agencies.
- (3) Establish a center for the development, collection, summarization, and dissemination of information that will be helpful to persons and organizations throughout the Nation in undertaking or promoting the establishment and successful operation of minority business enterprise.
- (4) Within constraints of law and appropriations therefore, and according to his discretion, provide financial assistance to public and private organizations so that they may render technical and management assistance to minority business enterprises, and defray all or part of the costs of pilot or demonstration projects conducted by public or private agencies or organizations which are designed to overcome the special problems of minority business enterprises or otherwise to further the purposes of this order.

(b) The Secretary, as he deems necessary or appropriate to enable him to better fulfill the responsibilities vested in him by subsection (a), may--

- (1) With the participation of other Federal departments and agencies as appropriate, develop comprehensive plans and specific program goals for the minority enterprise program; establish regular performance monitoring and reporting systems to assure that goals are being achieved; and evaluate the impact of Federal support in achieving the objectives established by this order.

- (2) Require a coordinated review of all proposed Federal training and technical assistance activities in direct support of the minority enterprise program to assure consistency with program goals and to avoid duplication.
- (3) Convene, for purposes of coordination, meetings of the heads of such departments and agencies, or their designees, whose programs and activities may affect or contribute to the purposes of this order.
- (4) Convene business leaders, educators, and other representatives of the private sector who are engaged in assisting the development of minority business enterprise or who could contribute to its development, for the purpose of proposing, evaluating and coordinating governmental and private activities in furtherance of the objectives of this order.
- (5) Confer with and advise officials of State and local governments.
- (6) Provide the managerial and organizational framework through which joint or collaborative undertakings with Federal departments or agencies or private organizations can be planned and implemented.
- (7) Recommend appropriate legislative or executive actions.

Sec. 2. [Revoked]

[Sec. 2 revoked by Executive Order 12007 of Aug. 22, 1977, 42 FR 42839, 3 CFR, 1977 Comp., p. 139]

Sec. 3. *Responsibilities of Other Federal Departments and Agencies.* (a) The head of each Federal department and agency, or a representative designated by him, when and in the manner so requested by the Secretary shall furnish information, assistance, and reports to, and shall otherwise cooperate with, the Secretary in the performance of his functions hereunder.

(b) The head of each Federal department or agency shall, when so requested by the Secretary, designate his Under Secretary or such other similar official to have primary and continuing responsibility for the participation and cooperation of that department or agency in matters concerning minority business enterprise.

(c) The officials designated under the preceding paragraph, when so requested, shall review and report to the Secretary upon the policies and programs of the minority business enterprise program, and shall keep the Secretary informed of all proposed budgets, plans and programs of his department or agency affecting minority business enterprise.

(d) The head of each Federal department or agency, or a representative designated by him, shall, to the extent provided under regulations issued by the Secretary after consultation with the official designated in paragraph (b) above, report to the Secretary on any activity that falls within the scope of the minority business enterprise program as defined herein and in those regulations.

(e) Each Federal department or agency shall, within constraints of law and appropriations therefore, continue all current efforts to foster and promote minority business enterprises and to support the program herein set forth, and shall cooperate with the Secretary of Commerce in increasing the total Federal effort.

Sec. 4. *Reports.* The Secretary shall, not later than 120 days after the close of each fiscal year, submit to the President a full report of his activities hereunder during the previous fiscal year. Further, the Secretary shall, from time to time, submit to the President his recommendations for legislation or other action as he deems desirable to promote the purposes of this order. Each Federal department or agency shall report to the Secretary as hereinabove provided on a timely basis so that the Secretary may consider such reports for his report and recommendations to the President. Each Federal department or agency shall develop and implement systematic data collection processes which will provide to the Office of Minority Business Enterprise Information Center current data helpful in evaluating and promoting the efforts herein described.

Sec. 5. *Policies and Standards.* The Secretary may establish such policies, standards, definitions, criteria, and procedures to govern the implementation, interpretation, and application of this order, and generally perform such functions and take such steps as he may deem to be necessary or appropriate to achieve the purposes and carry out the provisions hereof.

Sec. 6. *Definitions.* For purposes of this order, the following definitions shall apply:

- (a) "Minority business enterprise" means a business enterprise that is owned or controlled by one or more socially or economically disadvantaged persons. Such disadvantage may arise from cultural,

racial, chronic economic circumstances or background or other similar cause. Such persons include, but are not limited to, Negroes, Puerto Ricans, Spanish-speaking Americans, American Indians, Eskimos, and Aleuts.

(b) "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

Sec. 7. Construction. Nothing in this order shall be construed as subjecting any function vested in, or assigned pursuant to law to, any Federal department or agency or head thereof to the authority of any other agency or office exclusively, or as abrogating or restricting any such function in any manner.

Sec. 8. Prior Executive Order. Executive Order No. 11458 of March 5, 1969, is hereby superseded.

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Executive Order 12432--Minority business enterprise development

Source: The provisions of Executive Order 12432 of July 14, 1983, appear at 48 FR 32551, 3 CFR, 1983 Comp., p. 198, unless otherwise noted.

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including Section 205(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(a)), in order to provide guidance and oversight for programs for the development of minority business enterprise pursuant to my statement of December 17, 1982 concerning Minority Business Development; and to implement the commitment of the Federal government to the goal of encouraging greater economic opportunity for minority entrepreneurs, it is hereby ordered as follows:

Section 1. *Minority Business Development Plans.* (a) Minority business enterprise development plans shall be developed by each Federal agency having substantial procurement or grantmaking authority. Such agencies shall submit these plans to the Cabinet Council on Commerce and Trade on an annual basis.

(b) These annual plans shall establish minority enterprise development objectives for the participating agencies and methods for encouraging both prime contractors and grantees to utilize minority business enterprises. The plans shall, to the extent possible, build upon the programs administered by the Minority Business Development Agency and the Small Business Administration, including the goals established pursuant to Public Law 95-507.

(c) The Secretary of Commerce and the Administrator of the Small Business Administration, in consultation with the Cabinet Council on Commerce and Trade, shall establish uniform guidelines for all Federal agencies to be utilized in establishing the minority business programs set forth in Section 2 of this Order.

(d) The participating agencies shall furnish an annual report regarding the implementation of their programs in such form as the Cabinet Council on Commerce and Trade may request, and at such time as the Secretary of Commerce shall designate.

(e) The Secretary of Commerce shall provide an annual report to the President, through the Cabinet Council on Commerce and Trade, on activities under this Order and agency implementation of minority business development programs.

Sec. 2. *Minority Business Development Responsibilities of Federal Agencies.* (a) To the extent permitted by law and consistent with its primary mission, each Federal agency which is required to develop a minority business development plan under Section 1 of this Order shall, to accomplish the objectives set forth in its plan, establish programs concerning provision of direct assistance, procurement assistance, and management and technical assistance to minority business enterprises. (b) Each Federal agency shall, to the extent permitted by law and consistent with its primary mission, establish minority business development programs, consistent with Section 211 of Public Law 95-507, to develop and implement incentive techniques to encourage greater minority business subcontracting by Federal prime contractors.

(c) Each Federal agency shall encourage recipients of Federal grants and cooperative agreements to achieve a reasonable minority business participation in contracts let as a result of its grants and agreements. In cases where State and local governments are the recipients, such encouragement shall be consistent with principles of federalism.

(d) Each Federal agency shall provide the Cabinet Council on Commerce and Trade such information

as it shall request from time to time concerning the agency's progress in implementing these programs.

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Executive Order 12138--Creating a National Women's Business Enterprise Policy and prescribing arrangements for developing, coordinating and implementing a national program for women's business enterprise

Source: The provisions of Executive Order 12138 of May 18, 1979, appear at 44 FR 29637, 3 CFR, 1979 Comp., p. 393, unless otherwise noted.

In response to the findings of the Interagency Task Force on Women Business Owners and congressional findings that 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;

By the authority vested in me as President of the United States of America, in order to create a National Women's Business Enterprise Policy and to prescribe arrangements for developing, coordinating and implementing a national program for women's business enterprise, it is ordered as follows:

1-1. *Responsibilities of the Federal Departments and Agencies.*

1-101. Within the constraints of statutory authority and as otherwise permitted by law:

(a) Each department and agency of the Executive Branch shall take appropriate action to facilitate, preserve and strengthen women's business enterprise and to ensure full participation by women in the free enterprise system.

(b) Each department and agency shall take affirmative action in support of women's business enterprise in appropriate programs and activities including but not limited to:

- (1) management, technical, financial, and procurement assistance,
- (2) business-related education, training, counselling and information dissemination, and
- (3) procurement.

(c) Each department or agency empowered to extend Federal financial assistance to any program or activity shall issue regulations requiring the recipient of such assistance to take appropriate affirmative action in support of women's business enterprise and to prohibit actions or policies which discriminate against women's business enterprise on the ground of sex. For purposes of this subsection, Federal financial assistance means assistance extended by way of grant, cooperative agreement, loan or contract other than a contract of insurance of guaranty. These regulations shall prescribe sanctions for noncompliance. Unless otherwise specified by law, no agency sanctions shall be applied until the agency or department concerned has advised the appropriate person or persons of the failure to comply with its regulations and has determined that compliance cannot be secured by voluntary means.

1-102. For purposes of this Order, affirmative action may include, but is not limited to, creating or supporting new programs responsive to the special needs of women's business enterprise, establishing incentives to promote business or business-related opportunities for women's business enterprise, collecting and disseminating information in support of women's business enterprise, and insuring to women's business enterprise knowledge of and ready access to business-related services and resources. If, in implementing this order, an agency undertakes to use or to require compliance

with numerical set-asides, or similar measures, it shall state the purpose of such measure, and the measure shall be designed on the basis of pertinent factual findings of discrimination against women's business enterprise and the need for such measure.

1-103. In carrying out their responsibilities under Section 1-1, the departments and agencies shall consult the Department of Justice, and the Department of Justice shall provide legal guidance concerning these responsibilities.

1-2. *Establishment of the Interagency Committee on Women's Business Enterprise.*

1-201. To help insure that the actions ordered above are carried out in an effective manner, I hereby establish the Interagency Committee on Women's Business Enterprise (hereinafter called the Committee).

1-202. The Chairperson of the Committee (hereinafter called the Chairperson) shall be appointed by the President. The Chairperson shall be the presiding officer of the Committee and shall have such duties as prescribed in this Order or by the Committee in its rules of procedure. The Chairperson may also represent his or her department, agency or office on the Committee.

1-203. The Committee shall be composed of the Chairperson and other members appointed by the heads of departments and agencies from among high level policy-making officials. In making these appointments, the recommendations of the Chairperson shall be taken into consideration. The following departments and agencies and such other departments and agencies as the Chairperson shall select shall be members of the Committee: the Departments of Agriculture; Commerce; Defense; Energy; Health and Human Services; Housing and Urban Development; Interior; Justice; Labor; Transportation; Treasury; the Federal Trade Commission; General Services Administration; National Science Foundation; Office of Federal Procurement Policy; and the Small Business Administration. These members shall have a vote. Nonvoting members shall include the Executive Director of the Committee and at least one but no more than three representatives from the Executive Office of the President appointed by the President.

[Sec. 1-203 amended by Executive Order 12608 of Sept. 9, 1987, 52 FR 34617, 3 CFR, 1987 Comp., p. 245]

1-204. The Committee shall meet at least quarterly at the call of the Chairperson, and at such other times as may be determined to be useful according to the rules of procedure adopted by the Committee.

1-205. The Administrator of the Small Business Administration shall provide an Executive Director and adequate staff and administrative support for the Committee. The staff shall be located in the Office of the Chief Counsel for Advocacy of the Small Business Administration, or in such other office as may be established specifically to further the policies expressed herein. Nothing in this Section prohibits the use of other properly available funds and resources in support of the Committee.

1-3. *Functions of the Committee.* The Committee shall in a manner consistent with law:

1-301. Promote, coordinate and monitor the plans, programs and operations of the departments and agencies of the Executive Branch which may contribute to the establishment, preservation and strengthening of women's business enterprise. It may, as appropriate, develop comprehensive interagency plans and specific program goals for women's business enterprise with the cooperation of the departments and agencies.

1-302. Establish such policies, definitions, procedures and guidelines to govern the implementation, interpretation and application of this order, and generally perform such functions and take such steps as the Committee may deem to be necessary or appropriate to achieve the purposes and carry out the provisions hereof.

1-303. Promote the mobilization of activities and resources of State and local governments, business and trade associations, private industry, colleges and universities, foundations, professional organizations, and volunteer and other groups toward the growth of women's business enterprise, and facilitate the coordination of the efforts of these groups with those of the departments and agencies.

1-304. Make an annual assessment of the progress made in the Federal Government toward assisting women's business enterprise to enter the mainstream of business ownership and to provide recommendations for future actions to the President.

1-305. Convene and consult as necessary with persons inside and outside government to develop and promote new ideas concerning the development of women's business enterprise.

1-306. Consider the findings and recommendations of government and private sector investigations and studies of the problems of women entrepreneurs, and promote further research into such problems.

1-307. Design a comprehensive and innovative plan for a joint Federal and private sector effort to develop increased numbers of new women-owned businesses and larger and more successful women-owned businesses. The plan should set specific reasonable targets which can be achieved at reasonable and identifiable costs and should provide for the measurement of progress towards these targets at the end of two and five years. Related outcomes such as income and tax revenues generated, jobs created, new products and services introduced or new domestic or foreign markets created should also be projected and measured in relation to costs wherever possible. The Committee should submit the plan to the President for approval within six months of the effective date of this Order.

1-4. Other Responsibilities of the Federal Departments and Agencies.

1-401. The head of each department and agency shall designate a high level official to have the responsibility for the participation and cooperation of that department or agency in carrying out this Executive order. This person may be the same person who is the department or agency's representative to the Committee.

1-402. To the extent permitted by law, each department and agency upon request by the Chairperson shall furnish information, assistance and reports and otherwise cooperate with the Chairperson and the Committee in the performance of their functions hereunder. Each department or agency shall ensure that systematic data collection processes are capable of providing the Committee current data helpful in evaluating and promoting the efforts herein described.

1-403. The officials designated under Section 1-401, when so requested, shall review the policies and programs of the women's business enterprise program, and shall keep the Chairperson informed of proposed budget, plans and programs of their departments or agencies affecting women's business enterprise.

1-404. Each Federal department or agency, within constraints of law, shall continue current efforts to foster and promote women's business enterprise and to support the program herein set forth, and shall cooperate with the Chairperson and the Committee in increasing the total Federal effort.

1-5. Reports.

1-501. The Chairperson shall, promptly after the close of the fiscal year, submit to the President a full report of the activities of the Committee hereunder during the previous fiscal year. Further, the Chairperson shall, from time to time, submit to the President the Committee's recommendations for legislation or other action to promote the purposes of this Order.

1-502. Each Federal department and agency shall report to the Chairperson as hereinabove provided on a timely basis so that the Chairperson and the Committee can consider such reports for the Committee report to the President.

1-6. Definitions. For the purposes of this Order, the following definitions shall apply:

1-601. "Women-owned business" means a business that is at least 51 percent 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.

1-602. "Women's business enterprise" means a woman-owned business or businesses or the efforts

of a woman or women to establish, maintain or develop such a business or businesses.

1-603. Nothing in subsections 1-601 or 1-602 of this Section (1-6) should be construed to prohibit the use of other definitions of a woman-owned business or women's business enterprise by departments and agencies of the Executive Branch where other definitions are deemed reasonable and useful for any purpose not inconsistent with the purpose of this Order. Wherever feasible, departments and agencies should use the definition of a woman-owned business in subsection 1-601 above for monitoring performance with respect to women's business enterprise in order to assure comparability of data throughout the Federal Government.

1-7. *Construction.* Nothing in this Order shall be construed as limiting the meaning or effect of any existing Executive order.

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