


Executive Order

Commonwealth of Pennsylvania
Governor's Office

Subject: Minority and Women-Owned Business Opportunities	Number: 2004-6 As Amended
By Direction of:  Edward G. Rendell, Governor	DATE: January 17, 2011

- WHEREAS, in 2004, the level of participation by minority and women-owned businesses in the commonwealth's procurement of supplies, services, and construction averaged only two percent of the total dollars spent by the commonwealth; and
- WHEREAS, *Section 2101* of the *Commonwealth Procurement Code, 62 Pa. C. S. § 2101*, provides that it is the policy of this commonwealth to assist small and disadvantaged businesses in learning how to do business with commonwealth agencies; and
- WHEREAS, the Constitution of the Commonwealth of Pennsylvania prohibits discrimination on the basis of race, color, or gender; and
- WHEREAS, the commonwealth must continue to take steps not only to prevent discrimination against, but also to increase commonwealth contract participation by minority and women-owned businesses and other similarly disadvantaged businesses; and
- WHEREAS, formulation of specific policy initiatives to implement these important goals are assigned to the Department of General Services as the agency responsible for the formulation of general procurement policy under *Section 310* of the *Commonwealth Procurement Code, 62 Pa. C. S. § 301*; and

- WHEREAS, on April 15, 2004, I issued *Executive Order 2004-6* and charged the Department of General Services with the responsibility to develop and implement policy initiatives to substantially increase contracting and subcontracting opportunities for minority and women-owned businesses and other disadvantaged businesses in the commonwealth's procurement of supplies, services, and construction; and
- WHEREAS, pursuant to *Executive Order 2004-6* and Sections 310 and 2101 of the *Commonwealth Procurement Code, 62 Pa. C. S. § 301*, the Department of General Services developed and implemented policy initiatives aimed at substantially increasing the commonwealth procurement contract participation rate by minority and women-owned businesses and other disadvantaged businesses; and
- WHEREAS, the Department of General Services recently filed its annual report with the General Assembly that documented a substantial increase in minority and women-owned businesses' participation in procurement contracts to 13.80% with a total dollar commitment of \$236,206,179; and
- WHEREAS, commonwealth agencies are to be applauded for their success in substantially increasing minority and women-owned businesses' participation in procurement contracts; and
- WHEREAS, in light of the achieved success, I am updating *Executive Order 2004-6* to reflect the policy initiatives developed and implemented by the Department of General Services to achieve this success in increasing minority and women-owned businesses' participation in procurement contracts.

NOW, THEREFORE, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby designate the Department of General Services as the central agency to manage and develop the participation of minority and women-owned businesses and other disadvantaged businesses in commonwealth contracts.

1. Responsibilities.

a. The Department of General Services will:

- (1)** Develop and implement policy initiatives to substantially increase contracting and subcontracting opportunities for minority and women-owned businesses and other disadvantaged businesses in the commonwealth's procurement of supplies, services, and construction.
- (2)** Centrally manage commonwealth information, policies, procedures, and issues pertaining to minority and women-owned businesses and other disadvantaged businesses.
- (3)** Expand the pool of certified minority and women-owned businesses by:
 - (a)** Repealing the current eight-year graduation requirement for commonwealth certified minority and women-owned businesses.
 - (b)** Periodically adjusting the business size limitation for commonwealth certification.
 - (c)** Establishing reciprocal certification agreements with other governmental and nongovernmental organizations.
 - (d)** Establishing an expedited certification process for those minority and women-owned businesses certified by other certifying bodies.
- (4)** Enforce compliance with the minority and women-owned business program by both business and commonwealth agencies.
- (5)** Make such investigations and reports relating to the administration of the minority and women-owned business program and operations of an executive agency as they relate to the program.
- (6)** Request all such information or assistance as may be necessary, for carrying out the duties and responsibilities provided in this *Executive Order* from any federal, state, or local government agency or unit thereof.

b. Agency Heads under the Governor's jurisdiction will:

- (1) Be responsible for ensuring that all competitive contract opportunities issued by their agency seek to maximize participation by minority and women-owned businesses and other disadvantaged businesses.
- (2) Give consideration, when possible and cost effective, to contractors offering to utilize minority and women-owned businesses and disadvantaged businesses in the selection and award of contracts, including the use of a disadvantaged businesses participation criterion in the award of contracts through the competitive sealed proposals method of awarding procurement contracts, to the extent permitted by the United States Constitution, Pennsylvania Constitution, Commonwealth Procurement Code, or other state or federal law.
- (3) Ensure that the agency's commitment to the minority and women-owned business program is clearly understood and appropriately implemented and enforced by all agency employees.
- (4) Designate a responsible official to supervise the agency minority and women-owned business program and ensure compliance within the agency.
- (5) Furnish the Department of General Services, upon request, all requested information or assistance.
- (6) Recommend sanctions to the Secretary of General Services, as may be appropriate, against businesses that fail to comply with the policies of the commonwealth minority and women-owned business program.
- (7) Participate in outreach activities and events to increase interest and participation by minority and women-owned businesses.
- (8) Use the Department of General Services' Web site (www.dgs.state.pa.us) to identify Department of General Services-certified minority business enterprises (MBEs) and women business enterprises (WBEs) for solicitation of business firms for contracting opportunities.

- (9) Track and report to the Department of General Services information on MBE and WBE participation in commonwealth agency contracts in the form and format required by the Department of General Services.

2. Objective. The Department of General Services will seek to increase the utilization of minority and women-owned businesses and other disadvantaged businesses in all competitive contracting opportunities. To achieve this objective, the department will:

- a. Establish procurement policy that will give consideration, when possible and cost effective, to contractors offering to utilize minority and women-owned businesses and disadvantaged businesses in the selection and award of contracts. The policy shall, to the extent permitted by the United States Constitution, Pennsylvania Constitution, Commonwealth Procurement Code, or other state or federal law, require the use of disadvantaged business participation as a criterion in selecting contractors when using the competitive sealed proposals method of awarding procurement contracts.
- b. Develop and maintain an effective enterprise-wide data collection system in procurement and contracting, and institute quarterly and annual reporting requirements on participation level and spend in each agency.
- c. Create an internal data linkage so that agency buyers and purchasing agents will have a substantial number of commodity or service specific minority and women-owned businesses to solicit.
- d. Train procurement buyers and purchasing agents so they can assist in the department's mission.

3. Definitions.

- a. **Disadvantaged Business.** A minority-owned business, a women-owned business and any other business that is owned or controlled by a majority of persons, not limited to members of minority groups, who are subject to racial or ethnic prejudice or cultural bias.

- **b. Disadvantaged Business Participation.** Participation by a minority-owned business, woman-owned business or other disadvantaged business as a prime contractor, joint venture partner, supplier or subcontractor, including but not limited to providing legal services; accounting services; investment or escrow banking services; surety bonds; and insurance including but not limited to the services of brokers, managing general agents, administrators and underwriters; which services and supplies are directly related to the Commonwealth procurement contract.
- c. Minority-Owned Business.** A business owned and controlled by a majority of persons who are African Americans, Hispanic Americans, Native Americans, Asian Americans, Alaskans, and Pacific Islanders.
- d. Woman-Owned Business.** A business owned and controlled by a majority of persons who are women.
- **4. Rescission.** This *Executive Order 2004-6 As Amended*, replaces, in its entirety, *Executive Order 2004-6, dated April 15, 2004*.