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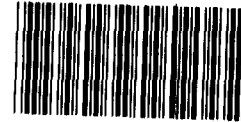
United States General Accounting Office

Report to the Chairman, Committee on  
Small Business, House of  
Representatives

July 1992

# SMALL BUSINESS

## Efforts to Provide Federal Procurement Dollars to Women-Owned Businesses



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**RELEA**



**Resources, Community, and  
Economic Development Division**

B-248449

July 28, 1992

The Honorable John J. LaFalce  
Chairman, Committee on  
Small Business  
House of Representatives

Dear Mr. Chairman:

You requested that we review federal agencies' requirements and procedures for certifying women-owned small businesses that are seeking federal contracts. As agreed with your office, this report discusses (1) how federal agencies' contracting goals are established for women-owned small businesses and what the recent experience has been with achieving these goals and (2) what procedures agencies use to certify that such businesses are, in fact, owned by women. In addition, you asked us to determine what actions the Department of Transportation (DOT) is taking to address the problem of women-owned and other small businesses having to be certified as disadvantaged business enterprises each time they bid on a contract from a different state or local agency.

The Small Business Administration (SBA) serves as the federal advocate for promoting and developing women-owned small businesses. SBA negotiates with executive branch agencies and departments to establish fiscal year contracting goals for women-owned small businesses and reports on procurement assistance provided to such businesses.

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**Results in Brief**

The contracting goals for women-owned small businesses that SBA negotiates with executive branch agencies and departments are nonbinding targets expressed as a percentage of each agency's total estimated procurement dollars for a fiscal year. For fiscal year 1990, SBA negotiated contracting goals of 0.3 percent to 29 percent with 45 of 57 agencies. SBA is less likely to negotiate contracting goals with small, independent agencies that have very low procurement budgets and/or very few contracts each year. The fiscal year 1990 goals totaled about \$2 billion and represented about 1.1 percent of the total estimated dollar value of contract awards for the fiscal year. Actual fiscal year 1990 contracts awarded to women-owned small businesses totaled about \$2.33 billion, or about 1.3 percent, of all contracts awarded. Of the 57 agencies, 17 accounted for about 97 percent of the amount awarded, and 14 of these 17 agencies met or exceeded their fiscal year 1990 negotiated goals. As of

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June 1992, data were not available to determine the extent to which the fiscal year 1991 contracting goals had been achieved. In addition to their negotiated goals, four agencies—DOT, the Department of Energy (DOE), the Agency for International Development (AID), and the Environmental Protection Agency (EPA)—are required to provide, to the extent possible, a minimum percentage of procurement funds for specific programs to groups that include women-owned small businesses.

Except for DOT's Disadvantaged Business Enterprise (DBE) Program, federal agencies rely on businesses to self-certify that they are women-owned. Under the DBE Program, state and local agencies that receive DOT grants for highway and other transportation projects are responsible for certifying that businesses receiving program contracts are DBEs—small firms that are owned and controlled by women or other socially and economically disadvantaged individuals.

DOT is considering changes to its DBE Program regulations to address past certification problems, such as a firm having to be certified each time it bids on a contract from a different state or local agency. One alternative would require a single entity to be established to perform all DBE certifications within a state or multistate region. Another alternative would mandate that state and local agencies accept each other's certifications. DOT is also studying changes to address situations that may apply when certifying women-owned businesses as DBEs, such as funds' being used from a joint marital account to establish a business. However, DOT has yet to decide which specific changes it might make to its regulations or when it might make such a decision.

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## Background

Executive Order 12138, issued in May 1979, established a national policy for promoting women-owned business enterprises—those in which women own and control at least 51 percent of the business. Among other things, the order required that executive branch agencies promote these enterprises through various activities, such as providing procurement and financial assistance and business-related training and counseling. The order also set up an Interagency Committee on Women's Business Enterprise to oversee federal agency activities and to assess the federal government's progress in promoting women-owned businesses. The order directed SBA to provide an executive director, staff, and administrative support for the Committee. SBA's Office of Women's Business Ownership currently performs these functions for the Committee. It also serves as the

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federal advocate for developing and promoting women-owned small businesses.

The Small Business Act requires SBA and each federal agency to establish annual contracting goals for small businesses and small businesses owned and controlled by socially and economically disadvantaged individuals. The act does not require that such goals be established for women-owned small businesses, but it does require that, beginning with fiscal year 1990, SBA annually compile and report to the President information that includes the number and dollar value of federal contracts awarded to such businesses. In addition to SBA, an Office of Small and Disadvantaged Business Utilization (OSDBU), established by the Small Business Act in each federal executive agency with procurement authority, provides procurement assistance to small businesses and reports on the agency's small business procurement activities.

The number of women-owned small businesses and their economic impact have increased significantly since the early 1980s. The Bureau of Census' most recent 5-year business census data show that between 1982 and 1987, the number of women-owned small businesses increased from about 2.6 million to about 4.1 million. During this same period, receipts generated by these firms increased from about \$98 billion to about \$278 billion. In 1987 women-owned small businesses accounted for about 30 percent of the 13.7 million small businesses in the United States. About 75 percent of all women-owned businesses in existence in 1987 were in retail trade and services, while about 4.5 percent were in construction and manufacturing.

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## Contracting Goals Exist for Women-Owned Small Businesses

Under the authority granted by Executive Order 12138, SBA attempts to negotiate nonbinding, contracting goals for women-owned small businesses with each executive branch agency. For fiscal year 1990, 17 agencies, which traditionally account for the majority of federal procurement dollars, generally met or exceeded their negotiated goals. In addition to their negotiated goals, DOT, DOE, AID, and EPA are required, by various laws, to provide a minimum percentage of funds for specific programs to groups that include women-owned small businesses.

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## SBA Negotiates Fiscal Year Contracting Goals

Through its Office of Women's Business Ownership and Office of Procurement Assistance, SBA negotiates with executive branch agencies to establish fiscal year contracting goals for women-owned small businesses. These goals are expressed as a percentage of the dollar value of all prime

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**contracts—contracts awarded directly by the federal government to individual businesses<sup>1</sup>—that each agency estimates it will award during the fiscal year.**

**SBA negotiates each contracting goal as a percentage of an agency's estimated contract dollars, rather than as a specific dollar amount because the percentage goal helps to ensure that women-owned small businesses receive a proportional share of the contracts should the agency's procurement budget increase or decrease. Also, when negotiating a contracting goal, SBA considers the type of industries in which the agency's procurement is concentrated and whether women-owned small businesses are prominent in these industries. According to the Director, SBA's Office of Women's Business Ownership, and to a representative from SBA's Office of Procurement Assistance, the negotiated contracting goals represent only good faith efforts; that is, the agencies are not legally required to meet these goals. The OSDBU representative at each of 18 other federal agencies—the 17 major procuring agencies and AID, a small, independent agency with a legislatively mandated contracting requirement—told us that the contracting goals SBA negotiates serve only as reminders to procuring officials to keep women-owned small businesses in mind when awarding contracts during the fiscal year.**

**For fiscal years 1990 and 1991, SBA conducted negotiations on contracting goals for women-owned small business with 57 executive branch departments and agencies. It established contracting goals with 45 agencies for both fiscal years. (See app. I.) According to the Director, Office of Women's Business Ownership, SBA is less likely to negotiate goals with small, independent agencies that have very low procurement budgets and/or very few contracts each year.**

**For fiscal year 1990, the contracting goals for women-owned businesses ranged from 0.3 percent to 29 percent at the 45 agencies. The goals totaled about \$2 billion and represented about 1.1 percent of the \$175.4 billion in total prime contracts estimated to be awarded by the agencies. The actual amount of prime contracts awarded to women-owned small businesses by these agencies for fiscal year 1990 totaled about \$2.33 billion. This amount represented about 1.3 percent of the \$177.8 billion in total prime contracts awarded by the agencies.**

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<sup>1</sup>Portions of prime contracts subcontracted to women-owned small businesses are not included in these figures.

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As of June 1992, data were not available to determine the extent to which the fiscal year 1991 contracting goals for women-owned small businesses had been achieved. The fiscal year 1991 goals at the 45 agencies ranged from 0.3 percent to 22 percent. These goals totaled about \$2 billion and represented about 1.2 percent of the \$166.3 billion in total prime contracts the agencies expected to award.

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### Most Major Procurement Agencies Met or Exceeded Goals

Fourteen of the 17 major federal procurement agencies met or exceeded the women-owned small business contracting goals SBA negotiated for fiscal year 1990. Of the approximately \$2.33 billion in actual contracts awarded to women-owned small businesses for fiscal year 1990, the 17 agencies accounted for about \$2.27 billion, or about 97 percent. (See app. II for information on each agency's goal and dollars awarded.)

The fiscal year 1990 negotiated goals for the 17 agencies ranged from 0.7 percent to 6.2 percent, and the percentages of actual contract dollars awarded to women-owned small businesses ranged from 0.7 percent to 5.9 percent. The lower percentages of actual contract dollars, however, do not always represent small amounts of actual contract dollars. For example, the 1.1 percent achieved by the Department of Defense for fiscal year 1990 represented about \$1.3 billion in actual contract dollars awarded, while the 5.9 percent achieved by the Department of Housing and Urban Development—the highest rate of all the agencies—represented \$21.5 million in actual contract dollars awarded.

The fiscal year 1991 contracting goals negotiated for women-owned small businesses with the 17 major procuring agencies, when compared with their negotiated goals for fiscal year 1990, were higher for 10 agencies, lower for 6 agencies, and the same for the remaining agency. The increases in the fiscal year 1991 goals ranged from 0.1 percent to 0.9 percent of total contract dollars awarded, while the decreases ranged from 0.1 percent to 1.5 percent.

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### Some Agencies Have Legislatively Mandated Contracting Requirements

In addition to negotiated goals, legislation requires DOT, DOE, AID, and EPA to provide, to the extent possible, a minimum percentage of funds for selected procurement activities to specific groups that include small businesses owned by women. Data show that for fiscal year 1991, DOT, DOE, and AID each exceeded the legislative requirements that at least 10 percent of funds for DOT transportation projects, the DOE Superconducting Super Collider Program, and AID foreign economic development and relief

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activities be awarded to the specific groups. EPA's legislative requirements that at least 8 percent and 10 percent, respectively, of funds for various agency program activities and for clean air research be awarded to women-owned small businesses and other specific groups became effective in fiscal year 1991. EPA exceeded its 8 percent requirement for fiscal year 1991, but no data were available to determine how well EPA did in meeting the 10-percent requirement. Because of legal and other problems, it was October 1991, or fiscal year 1992, before EPA finalized the document that implemented the 10-percent requirement. Appendix III contains a detailed discussion of the legislative contracting requirements for each of the four agencies.

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### Most Agencies Use Self-Certification for Women-Owned Small Businesses

Except for DOT's DBE Program—in which state and local agencies certify that businesses qualify as DBEs—federal agencies do not require independent verification that small businesses are, in fact, owned by women for purposes of qualifying for federal contracts. Rather, federal agencies rely on the individual business to certify, when it bids on a contract, whether it qualifies as a small business, a small business owned by a disadvantaged individual, or a small business owned and operated by a woman. SBA resolves challenges to or questions about the self-certification.

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### The FAR Describes the Self-Certification Process

The Federal Acquisition Regulations (FAR) set forth procurement policies and procedures for executive agencies. Section 19.301 states that in order for a firm to be eligible for a federal contract award as a small business, the firm must represent, in good faith, that it is a small business at the time of the written self-certification. Specifically, each contract solicitation must contain three clauses for a firm to use to certify whether it is a small business, a small business owned and controlled by a disadvantaged individual, or a small business owned and controlled by a woman. A contracting officer must accept the self-certification, unless a third party challenges the certification or the contracting officer has reason to question it. If a firm's self-certification is challenged or questioned, the contracting agency must refer the matter to SBA for resolution, and the contracting officer must accept SBA's decision.

While self-certification formally occurs when a firm bids on a contract, federal agencies also obtain information on whether a business is small and women-owned from data bases maintained by SBA and several other agencies. A business seeking federal contracts completes a Solicitation



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Mailing List Application or an equivalent SBA or agency form. The forms request specific information about the firm, such as its name and address, nature of business (e.g., service, manufacturing, or construction), and type of ownership (e.g., sole proprietorship or partnership). The forms also request that the business designate whether it is a small business, as defined by SBA, or whether it is owned and controlled by a woman or other minority person. The information provided on these forms is stored either in SBA's Procurement Automated Source System data base—a centralized data base that federal agencies and prime contractors use to identify small businesses seeking federal contracts—or in the automated procurement data bases maintained by several agencies and used to identify small businesses interested in upcoming contracting opportunities.

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### **DOT's DBE Program Certification Requirements Are More Demanding**

DOT's DBE Program is the only exception to the self-certification procedures. Under the program, state and local governmental agencies that receive federal assistance grants from DOT for highway, airport, and mass transit projects must independently certify that women-owned and other businesses receiving contracts under the program qualify as DBEs.

The Surface Transportation and Uniform Relocation Assistance Act of 1987 and the Airport and Airway Safety and Capacity Expansion Act of 1987 required the Secretary of Transportation to establish minimum certification criteria that each state and local agency receiving federal assistance grants must adopt. Such criteria must include, but not be limited to, on-site visits to the firm, personal interviews with the principal owners of the firm, analysis of the firm's bonding and financial capacity, and a list of the firm's key personnel, who will perform the work under the DBE contract. When the Congress enacted these provisions, there were concerns that individuals who were not eligible for the DBE Program were setting up companies solely for the purposes of obtaining federal contracts under the program.

While the DBE Program regulations contain minimum certification criteria, they also provide that the individual state and local agencies may adopt stricter certification criteria. The regulations permit, but do not require, that state and local agencies accept each other's certifications. However, according to DOT, state and local agencies generally do not accept each other's certification. As a result, some firms, already certified as DBEs by one state or local agency, have had to go through the certification process again in order to obtain contracts from another agency. At times, this

second agency was located in the same state as the agency that had already certified the firms.

## DOT Is Considering Changes to Its DBE Certification Procedures

DOT is considering changes to its DBE Program regulations to address certification problems and to clarify and update the procedures. According to DOT's Deputy Assistant General Counsel for Regulations and Enforcement, DOT is exploring various options to address the problem of women-owned and other businesses having to be certified each time the firm bids on a contract from a different state or local agency. One alternative would require that a single entity be established to perform all DBE certification functions within a state or multistate region. This entity would be responsible for certifying firms as DBEs regardless of whether the source of the federal assistance grant is the Federal Highway Administration, the Federal Transit Administration, or the Federal Aviation Administration. Another alternative would retain the current certification process but make it mandatory that state and local agencies accept each other's DBE certifications.

DOT is also exploring changes that would clarify the DBE regulations regarding situations that may apply when determining whether a woman-owned business qualifies as a DBE. These situations include funds' being used from a joint marital checking account or other jointly held assets to acquire or to start a business, or a situation in which the husband or another nonminority male family member works for the firm in a critical position. DOT is considering requiring that, in such situations, the husband or other male family member waive his ownership rights or his control of the firm's operations in order for the firm to qualify as a DBE.

As of May 1992, DOT had not decided on which specific changes it might propose to the DBE regulations or when DOT might make such a decision.

## Objectives, Scope, and Methodology

The Chairman, House Committee on Small Business, requested that we review federal agency requirements and procedures for certifying that a woman owns and controls a small business that is seeking federal contracts. To carry out our objectives, we interviewed officials of SBA's Office of Women's Business Ownership and Office of Procurement Assistance and representatives of the OSDBU at each of 18 federal agencies—the 17 major procuring agencies and AID, a small, independent agency with a legislatively mandated contracting requirement that includes women-owned small businesses. In addition, we obtained SBA data on (1)

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negotiated contracting goals and actual contract awards to women-owned small businesses for fiscal year 1990 and (2) negotiated contracting goals for fiscal year 1991. We also reviewed the Small Business Act and other legislation for information on (1) SBA's goal-setting authorities and reporting requirements for contracts with women-owned small businesses and (2) DOT's, DOE's, AID's, and EPA's legislatively mandated contracting requirements for women-owned small businesses. We obtained information from each of these four agencies on the amount of contracts awarded to women-owned businesses and to the other targeted groups for fiscal years 1990 and 1991 in response to these legislative mandates. Finally, we reviewed the FAR and individual regulations for those agencies with mandated procurement requirements for information on the procedures agencies use to certify women-owned businesses. However, we did not determine the effectiveness of these certification procedures.

To obtain information on the status of DOT's proposed changes to procedures for certifying women-owned and other small businesses as DBES, we interviewed officials from DOT's Office of General Counsel and Office of Small and Disadvantaged Business Utilization. We conducted our review between June 1991 and June 1992 in accordance with generally accepted government auditing standards.

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## Agency Comments

We discussed the report with officials of SBA's Office of Women's Business Ownership and Office of Procurement Assistance and officials of DOT's Office of General Counsel and Office of Small and Disadvantaged Business Utilization, who generally agreed with the facts presented. We incorporated their suggested revisions where appropriate. However, as agreed, we did not obtain written agency comments on this report.

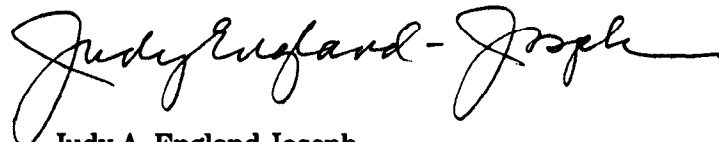
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As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after the date of this letter. At that time, we will provide copies of the report to the Administrator, SBA; the Secretary, DOT; and the Director, Office of Management and Budget. We will also make copies available to others upon request.

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If you have any questions about this report, please contact me at (202) 275-5525. Major contributors to this report are listed in appendix IV.

Sincerely yours,

A handwritten signature in cursive script that reads "Judy England-Joseph". The signature is fluid and extends to the right with a long horizontal stroke.

Judy A. England-Joseph  
Director, Housing and Community  
Development Issues



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**Abbreviations**

<b>AID</b>	<b>Agency for International Development</b>
<b>DBE</b>	<b>disadvantaged business enterprise</b>
<b>DOE</b>	<b>Department of Energy</b>
<b>DOT</b>	<b>Department of Transportation</b>
<b>EPA</b>	<b>Environmental Protection Agency</b>
<b>FAA</b>	<b>Federal Aviation Administration</b>
<b>FAR</b>	<b>Federal Acquisition Regulations</b>
<b>FHWA</b>	<b>Federal Highway Administration</b>
<b>FTA</b>	<b>Federal Transit Administration</b>
<b>OSDBU</b>	<b>Office of Small and Disadvantaged Business Utilization</b>
<b>SBA</b>	<b>Small Business Administration</b>

# The 57 Federal Executive Agencies With and Without Negotiated Contracting Goals for Women-Owned Small Businesses for Fiscal Years 1990 and 1991

Department/agency	Fiscal year 1990		Fiscal year 1991	
	Goal	No goal	Goal	No goal
Agriculture	•		•	
Commerce	•		•	
Defense	•		•	
Education	•		•	
Energy	•		•	
Environmental Protection Agency	•		•	
General Services Administration	•		•	
Health and Human Services	•		•	
Housing and Urban Development	•		•	
Interior	•		•	
Justice	•		•	
Labor	•		•	
National Aeronautics and Space Administration	•		•	
State	•		•	
Transportation	•		•	
Treasury	•		•	
Veterans Affairs	•		•	
ACTION	•		•	
Administrative Conference of the United States		•		•
Agency for International Development	•		•	
Board for International Broadcasting		•		•
Commission on Civil Rights		•		•
Commodity Futures Trading Commission		•		•
Consumer Product Safety Commission	•		•	
Equal Employment Opportunity Commission	•		•	
Executive Office of the President	•		•	
Export-Import Bank of the United States		•	•	
Farm Credit Administration		•		•
Federal Communications Commission	•		•	
Federal Election Commission	•		•	

(continued)



**Appendix I  
The 57 Federal Executive Agencies With and  
Without Negotiated Contracting Goals for  
Women-Owned Small Businesses for Fiscal  
Years 1990 and 1991**

Department/agency	Fiscal year 1990		Fiscal year 1991	
	Goal	No goal	Goal	No goal
Federal Emergency Management Agency	•		•	
Federal Energy Regulatory Commission	•		•	
Federal Maritime Commission		•		•
Federal Mediation and Conciliation Service		•		•
Federal Mine Safety and Health Review Commission		•		•
Federal Trade Commission	•		•	
International Trade Commission		•		•
Interstate Commerce Commission	•		•	
Merit Systems Protection Board	•		•	
National Archives and Records Administration	•		•	
National Capital Planning Commission	•			•
National Endowment for the Arts	•		•	
National Endowment for the Humanities	•		•	
National Labor Relations Board	•		•	
National Science Foundation	•		•	
National Transportation Safety Board	•		•	
Nuclear Regulatory Commission	•		•	
Occupational Safety and Health Review Commission	•		•	
Office of Personnel Management	•		•	
Pennsylvania Avenue Development Corporation	•		•	
Securities and Exchange Commission		•		•
Selective Service System	•		•	
Small Business Administration	•		•	
Smithsonian Institution		•		•
Tennessee Valley Authority	•		•	
United States Arms Control and Disarmament Agency	•		•	
United States Information Agency	•		•	
<b>Total</b>	<b>45</b>	<b>12</b>	<b>45</b>	<b>12</b>

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# Contracting Goals and Contract Dollars for the 17 Major Federal Procuring Agencies

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For fiscal year 1990, the 17 major federal procurement agencies accounted for about \$2.27 billion, or about 97 percent, of the approximately \$2.33 billion in contracts awarded to women-owned small businesses. Fourteen of the 17 agencies met or exceeded the contracting goals for women-owned small businesses that SBA negotiated with them for fiscal year 1990.

Table II.1 compares the contracting goal percentage negotiated by SBA (and dollar value of the goal) with the actual percentage (and dollar amount) of contracts awarded to women-owned small businesses for each of the 17 agencies for fiscal year 1990. For fiscal year 1991, table II.1 shows the contracting goal percentage that SBA negotiated with each agency and the dollar value represented by each goal.

**Appendix II  
Contracting Goals and Contract Dollars for  
the 17 Major Federal Procuring Agencies**

**Table II.1: Fiscal Year 1990 Negotiated Prime Contracting Goals and Actual Contract Awards to Women-Owned Small Businesses and Fiscal Year 1991 Negotiated Goals for the 17 Major Procuring Agencies**

Dollars in millions

Agency/department	Fiscal year 1990				Fiscal year 1991	
	Negotiated goal (percent)	Dollar value of goal	Actual contract awards		Negotiated goal (percent)	Dollar value of goal
			Dollar value	Percent of total dollars		
Agriculture	1.9	\$ 38.9	\$ 38.9	2.2	2.4	\$ 52.8
Commerce	3.4	19.7	17.7	3.5	2.8	17.6
Defense	1.0	1,255.0	1,328.9	1.1	1.1	1,227.6
Education	3.0	5.1	1.9	0.7	3.4	5.7
Energy	1.5	210.0	333.0	2.0	1.5	225.0
Environmental Protection Agency	1.9	19.0	14.2	1.4	1.6	17.6
General Services Administration	1.3	94.2	102.5	1.3	1.0	92.2
Health and Human Services	3.0	57.3	89.3	4.1	3.7	65.5
Housing and Urban Development	6.2	21.7	21.5	5.9	6.4	29.0
Interior	2.6	32.4	41.9	3.6	2.7	32.8
Justice	1.2	12.0	32.7	2.8	2.1	31.3
Labor	1.0	5.8	19.1	3.1	1.8	10.6
National Aeronautics and Space Administration	0.7	72.4	64.2	0.7	0.6	68.6
State	2.5	11.6	15.4	4.1	3.0	13.5
Transportation	1.4	33.9	61.1	1.8	1.0	24.2
Treasury	4.0	22.0	32.5	4.1	2.5	25.0
Veterans Affairs	1.7	49.3	57.5	2.0	1.9	55.1
Subtotal—17 Agencies	1.1 <sup>a</sup>	\$1,960.3	\$2,272.3	1.3 <sup>a</sup>	1.2 <sup>a</sup>	\$1,994.1
Other executive agencies	1.6 <sup>a</sup>	49.5	56.9	1.7 <sup>a</sup>	1.5 <sup>a</sup>	42.8
<b>Total</b>	<b>1.1<sup>a</sup></b>	<b>\$2,009.80</b>	<b>\$2,329.2</b>	<b>1.3<sup>a</sup></b>	<b>1.2<sup>a</sup></b>	<b>\$2,036.9</b>

<sup>a</sup>Not negotiated goals but represent percentage of the agencies' estimated (or actual) dollar amount of total prime contract awards to women-owned small businesses compared with their estimated (or actual) dollar amount of total prime contract awards.

Source: SBA's Office of Procurement Assistance.

# Detailed Discussion of Legislative Contracting Requirements Involving Women-Owned Small Businesses

In addition to the contracting goals for women-owned small businesses that SBA negotiates with them, four agencies—the Departments of Transportation (DOT) and Energy (DOE), the Agency for International Development (AID), and the Environmental Protection Agency (EPA)—are required by legislation to provide to the extent possible, a minimum percentage of procurement funds for specific programs to groups targeted by the legislation that include women-owned small businesses. Each agency's legislative contracting requirements are discussed in detail below.

## DOT's Contracting Requirements for Transportation Projects

DOT's contracting requirements are mandated by the Surface Transportation and Uniform Relocation Assistance Act of 1987 and the Airport and Airway Safety and Capacity Expansion Act of 1987. Specifically, these acts require that, except to the extent that the Secretary of Transportation determines otherwise, not less than 10 percent of federal assistance grant dollars provided to state and local agencies by each of DOT's Federal Highway Administration (FHWA), Federal Transit Administration (FTA)—formerly the Urban Mass Transportation Administration—and Federal Aviation Administration (FAA) must be disbursed to Disadvantaged Business Enterprises (DBEs). Women are included in the acts' DBE definition. Federal assistance grants are used by state and local agencies to finance highway, urban mass transit, and airport projects. More recently, the Intermodal Surface Transportation Efficiency Act of 1991 requires that except to the extent that the Secretary of Transportation determines otherwise, at least 10 percent of federal assistance grant dollars provided to state and local agencies by DOT's FHWA and FTA for fiscal years 1992 through 1995 shall be disbursed to DBEs.

As table III.1 shows, DBEs received more than 10 percent of the contract dollars awarded by state and local agencies for fiscal years 1990 and 1991. Of the total \$1.9 billion awarded to DBEs for fiscal year 1990, women-owned small businesses received about \$646.3 million, or 33 percent. For fiscal year 1991, women-owned small businesses received about \$769.3 million, or about 33 percent, of the \$2.3 billion in total contracts awarded to DBEs.

**Appendix III  
Detailed Discussion of Legislative  
Contracting Requirements Involving  
Women-Owned Small Businesses**

**Table III.1: Federal Assistance Contract Awards to DBEs and Other Businesses, by DOT Funding Administration, for Fiscal Years 1990 and 1991**

Dollars in millions

DOT administration	Fiscal year 1990			Fiscal year 1991		
	Total available funding	Awards to DBEs	Awards to other businesses	Total available funding	Awards to DBEs	Awards to other businesses
FHWA	\$10,348 (100%)	\$ 1,480 (14.3%)	\$ 8,868 (85.7%)	\$11,068 (100%)	\$ 1,616 (14.6%)	\$ 9,452 (85.4%)
FTA	1,545 (100%)	263 (17.0%)	1,282 (83.0%)	2,316 (100%)	440 (19.0%)	1,876 (81.0%)
FAA	1,178 (100%)	197 (16.7%)	981 (83.3%)	1,624 (100%)	286 (17.6%)	1,338 (82.4%)
<b>Total<sup>a</sup></b>	<b>\$13,071 (100%)</b>	<b>\$ 1,939 (14.8%)</b>	<b>\$11,132 (85.2%)</b>	<b>\$15,009 (100%)</b>	<b>\$ 2,342 (15.6%)</b>	<b>\$12,667 (84.4%)</b>

<sup>a</sup>Totals may not add due to rounding.

Source: DOT's Office of Small and Disadvantaged Business Utilization.

## DOE's Contracting Requirement for Superconducting Super Collider Program

DOE's appropriations acts for fiscal years 1990 through 1992 required that the Secretary of Energy, to the fullest extent possible, ensure that at least 10 percent of federal funds used to develop, construct, and operate the Superconducting Super Collider Program be made available to business concerns or other organizations that are owned or controlled by socially and economically disadvantaged individuals. The act states that this category includes historically black colleges and universities, colleges and universities with Hispanic American or Native American student populations of more than 20 percent, and small businesses owned or controlled by women.

DOE did not meet its 10-percent requirement for fiscal year 1990. Of the \$106 million in contracts awarded for the Collider Program for the fiscal year, awards to targeted firms and organizations totaled about \$6 million—5.7 percent. Of this amount, women-owned small businesses received approximately \$3 million—about 50 percent.

For fiscal year 1990, DOE had planned to award about \$19 million in contracts to targeted firms and organizations. However, according to the DOE's Superconducting Super Collider Project Office, the Collider Program was just beginning in fiscal year 1990, and the shortfall in the dollar value

of contracts awarded to these firms and organizations occurred because the total funding expected for the program did not materialize.

For fiscal year 1991, socially and economically disadvantaged businesses and organizations received about \$34.3 million, or about 16 percent, of the \$216 million available for the Collider Program. However, DOE cannot determine how much of these funds were awarded to women-owned small businesses.

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### **AID's Contracting Requirement for Development and Relief Activities**

For fiscal years 1984 through 1989, AID's appropriations acts required that, except to the extent that the Administrator, AID, determined otherwise, not less than 10 percent of the aggregate funds made available during each fiscal year for bilateral economic assistance had to be awarded to socially and economically disadvantaged businesses. For fiscal years 1990 and 1991, the acts required that, except to the extent the Administrator determined otherwise, not less than 10 percent of AID's aggregate of funds made available during each fiscal year for development assistance and assistance for African famine recovery and development were to be awarded to (1) businesses and voluntary organizations owned and controlled by socially and economically disadvantaged individuals including women, (2) historically black colleges and universities, and (3) colleges and universities with Hispanic American student populations greater than 40 percent.

AID met its 10-percent requirement for fiscal years 1990 and 1991. AID data show that for fiscal year 1990, AID's contract awards totaled about \$1 billion, of which \$163 million, or about 16 percent, were awarded to socially and economically disadvantaged businesses and organizations. Women-owned businesses accounted for \$23 million, or about 14 percent, of the \$163 million. For fiscal year 1991, AID's contract awards totaled about \$1.2 billion, of which approximately \$179 million, or about 15 percent, were awarded to socially and economically disadvantaged businesses. Women-owned businesses accounted for about \$32 million, or 18 percent of the \$179 million.

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### **EPA's Contracting Requirements for Clean Air and Other Program Activities**

EPA has two legislatively mandated procurement requirements that became effective in fiscal year 1991 and include women-owned small businesses among the targeted groups.

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**Appendix III  
Detailed Discussion of Legislative  
Contracting Requirements Involving  
Women-Owned Small Businesses**

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Amendments to the Clean Air Act, enacted in November 1990, mandate that the Administrator, EPA, must require, to the extent practicable, that not less than 10 percent of total federal funding for clean air research activities authorized by the amendments be made available to concerns owned by socially and economically disadvantaged individuals, which includes women. No data were available as to how well EPA has done in meeting the requirement for fiscal year 1991. Because of legal and other problems, it was October 1991, or fiscal year 1992, before EPA finalized the document that implemented the 10-percent requirement. Also, according to an EPA Office of Small and Disadvantaged Business Utilization (OSDBU) program officer, most of the clean air research and development work is performed by universities and nonprofit organizations under cooperative agreements with EPA, and EPA is having difficulty getting them to track and to report the amount of clean air research funds going to disadvantaged concerns. This individual also stated that EPA is not sure of the amount of funds to which the 10-percent requirement applies because some confusion exists regarding what constitutes clean air research for purposes of the requirement.

EPA's fiscal year 1991 appropriations act required that the Administrator, EPA, should, to the fullest extent possible, ensure that at least 8 percent of federal funding for prime contracts and subcontracts awarded in support of authorized programs, including grants, loans, and contracts for wastewater treatment and leaking underground storage tank grants, be made available to business concerns and organizations owned or controlled by socially and economically disadvantaged individuals, a category that includes women. For fiscal year 1991, total contracts awarded by EPA totaled about \$1.2 billion, of which \$169.1 million, or about 14.1 percent, were awarded to targeted businesses. Women-owned businesses accounted for about \$14.3 million, or about 8.5 percent of the \$169.1 million. While EPA's fiscal year 1991 appropriations act is unclear as to whether the 8-percent requirement applies to future fiscal years, EPA has interpreted the provision to apply to contracts awarded beyond fiscal year 1991.

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