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F O C U S

This
Month

WOMEN IN CONSTRUCTION



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Opportunities for women-owned businesses

Women make up a larger percentage of the construction industry workforce than ever before. Even as more and more young people are opting to attend college and less are choosing construction as a career, there is an increase in the number of women that are interested in construction. The old stereotypes are fading away, and organizations such as NAWIC are encouraging and supporting women to build careers in the industry. Many women are starting their own businesses, and the good news is that there are laws in place that can help at the federal, state and local levels.

Federal, state, and local levels of government have enacted statutes setting aside contracts for minority and women-owned business enterprises, or at least preferring those businesses as subcontractors on public contracts. Federal set-aside programs exist for minority-owned business enterprises (MBE), disadvantaged business enterprises (DBE), and women-owned business enterprises (WBE). It is in these federal projects that real opportunities exist for women-owned businesses.

One avenue by which the federal government has tried to promote WBEs is to state that it is the policy of the United States that small business concerns, owned and controlled by service-disabled veterans, qualified HUBZones, socially and economically disadvantaged individuals and women, shall have the maximum practicable opportunity to participate in the performance of con-

tracts let by any federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems.

The term "small business concern owned and controlled by women" means a small business concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of the stock is owned by one or more women, and whose management and daily business operations are controlled by one or more women.

These requirements must be met literally or the business concern will not qualify as a WBE. As an example, litigation resulted from a project in which the Department of Transportation refused to certify a steel erection contractor as a WBE, even though 100% of the contractor's stock was owned by a woman who qualified as a "minority." Although the woman owner worked full time for the contractor

in an administrative position, the DOT concluded the woman's husband, who estimated all jobs, ran all jobs, and had extensive experience in the steel construction business, was in true control of the business, and it did not qualify as an WBE.

Another avenue by which the federal government tries to promote WBEs is when a federal agency issues a contract which calls for only MBE, DBE or WBE participation in certain situations. A contracting officer may restrict competition for any contract for procuring goods or services by the federal government to small business concerns owned and controlled by women if: (1) each of the concerns is not less than 51 percent owned by one or more women who are economically disadvantaged, (2) the contracting officer has a reasonable expectation that two or more small business concerns owned and controlled by women will submit offers for the contract, (3) the contract is for the procurement of goods or services with respect to an industry in which women are underrepresented, (4) the anticipated award price of the contract does not exceed \$5,000,000 in the case of a contract assigned an industrial classification code for manufacturing, or \$3,000,000 for all other contracts, (5) the contract award can be made at a fair and reasonable price, and (6) each of the businesses is certified by a Federal Agency, a State government, or a national certifying entity as a small business concern owned and controlled by women or certifies to the contracting officer that it is a small business concern owned and controlled by women and provides adequate documentation to support such certification.

The above efforts of the federal government to assist women in the bidding process are not without qualifications, however. While women-owned businesses are encouraged in the bidding process, no small business concern shall be deemed eligible for any assistance unless it is determined that with contract, financial, technical, and management support the small business concern will be able to perform contracts which may be awarded to the business concern and has reasonable prospects for success in competing in the private sector. This can be a problem in the real world, as sometimes the general contractor cannot find a qualified subcontractor and must use a MBE, WBE, or DBE regardless. This often results in delays, mismanagement, payment disputes, and in the worst cases, litigation. It is advisable to know your limitations and not to bid on jobs your business concern cannot handle. What starts as a found opportunity may result in a lost reputation that may never be recovered.

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