

STATE OF LOUISIANA

EXECUTIVE DEPARTMENT

BATON ROUGE

EXECUTIVE ORDER NO. EWE 93-34

WHEREAS, the State of Louisiana is home to numerous minority-owned and women-owned contracting businesses; and

WHEREAS, many of these minority and women-owned contracting businesses find themselves at a competitive disadvantage in bidding for various public and private contracting jobs because they are limited by their lack of knowledge of management and financing techniques, standards, and procedures, and in particular by their inability to meet the managerial and financial standards set by surety companies; and

WHEREAS, if the skill, hard work, and enthusiasm of these small minority and women-owned contracting businesses is supplemented with sufficient professional and financial advice and assistance, then such businesses will be able to fairly compete for their first contracting jobs or increase their current bond limit and surety companies in Louisiana will be encouraged to assist such contractors; and

WHEREAS, Act No. 851 of the 1990 Regular Legislative Session created the Louisiana Small Business Bonding Assistance Program to provide such advice and assistance to small minority and women-owned contracting businesses and further provided that the Program terminates on June 30, 1993; and

WHEREAS, the State of Louisiana's small minority and women-owned contracting businesses will benefit if the Louisiana Small Business Bonding Assistance Program is allowed to continue its efforts in assisting these businesses.

NOW THEREFORE, I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the State of Louisiana, do hereby order and direct the following:

SECTION 1: The Louisiana Small Business Bonding Assistance Program is hereby recreated within the Department of Economic Development.

SECTION 2: The terms used herein shall have the meaning ascribed to them in La. R.S. 51:2303 unless the context clearly indicates a different meaning. However, the following terms shall have the following meanings:

A. "Approved surety company" means a surety company approved by the Secretary for participation in providing direct bonding assistance to qualified contractors.

B. "Bonds" means any bond or security required for bid, payment, or performance of contracts.

C. "Department" means the Department of Economic Development.



D. "Director" means the director of the Louisiana Small Business Bonding Assistance Program, or a person duly authorized by the director to act on his behalf.

E. "Program" means the Louisiana Small Business Bonding Assistance Program, as provided for herein.

F. "Qualified contractor" means a minority-owned or women-owned resident small business contractor which has obtained a certificate of accreditation from the Louisiana Contractor Accreditation Institute.

G. "Resident small business contractor" means a small business enterprise headquartered, operating, and domiciled in the state, which is a contractor licensed under the laws of this state.

H. "Subcenter" means any subcenter of the Louisiana Small Business Development Center.

SECTION 3:

The Secretary of the Department of Economic Development, hereinafter referred to as Secretary, shall appoint the director of the Louisiana Small Business Bonding Assistance Program. The Secretary shall also assign a program assistant. The director and the program assistant shall devote all of their time to the development, implementation, and administration of the program.

SECTION 4:

The Director, in implementing the Program, shall have the following powers, duties, and functions:

A. In General - The director shall assist resident minority-owned and women-owned small contracting businesses, and other small contracting businesses, in acquiring the managerial and financial skills, standards, and assistance necessary to enable them to obtain bid, payment, and performance bonds from surety companies for either advertised or designated contracts;

B. Louisiana Contractor Accreditation Institute - The director shall establish a Louisiana Contractor Accreditation Institute, with the advice and assistance of the office of the Louisiana Small Business Development Center, the department, surety companies, and other businesses and associations related to the contracting field;

The institute shall be a standard course of instruction given under the supervision and coordination of the director by subcenters of the Louisiana Small Business Development Center to resident small business contractors. The instruction shall be intensive, practical training courses in financing, bidding for contracts, managing, accounting, and recordkeeping for a contracting business, with an emphasis on federal, state, local, or private programs available to assist small contractors. The institute courses shall be given by professionals, chosen by the director, who have practical knowledge and experience in those areas.

The institute shall be held by the subcenters in major cities throughout the state at times chosen by the director, which are convenient for people in the contracting business. The course of instruction and the textbooks or workbooks to be utilized in such instruction shall be selected or developed by the director with the advice and assistance of the subcenters in the state.

Any resident small business contractor or key management of such a contractor may attend any course of instruction offered by the institute at any place and at any time such instruction is offered by a subcenter. The subcenters shall keep records of the attendance by such contractors or their employees at the various courses. When the records reflect that a resident small business contractor or a key management employee of such a contractor has attended all of the courses of instruction offered by the institute, the contractor shall be awarded a certificate of accreditation acknowledging his successful completion of the course.

A certificate of accreditation may be awarded by a subcenter upon approval by the director if a review of a contractor's education, experience, and business history indicates that the contractor, or a key management employee of such contractor, already possesses the knowledge and skills offered by the institute, or if the contractor or his employee successfully completes the test required of regular institute participants.

C. Technical and Support Assistance - Provided that the Louisiana Legislature establishes a Louisiana Small Business Bonding Assistance Fund, the director may provide a grant to a subcenter of no more than seven thousand five hundred dollars (\$7,500.00) on behalf of a qualified contractor for the acquisition of the professional services of certified public accountants, construction management companies, the subcenter itself, or any other technical, surety, financial, or managerial professionals. Such professionals may assess or audit the operations, finances, bookkeeping, and recordkeeping of the qualified contractor and may make recommendations, prepare statements and reports, and consult with and train contractor personnel regarding any of the contractor's procedures and practices in order to assist the contractor to obtain a bond for a particular contract and, in the long run, to enhance the long term competitiveness and self-sufficiency of the contractor. This assistance shall only be available to a small business contractor on a one-time basis.

D. Bonding Assistance - Provided that the Louisiana Legislature establishes a Louisiana Small Business Bonding Assistance Fund, if a qualified contractor makes an application for a bond to an approved surety company for a public or private contracting job, but fails to obtain the bond because he is unable to meet the requirements of the surety company on such bonding contracts, for reasons other than non-performance, the approved surety company may apply to the director to have the bond confected and issued under the Louisiana Small Business Bonding Assistance Program as provided herein.

Upon receipt of such an application from a surety company, the director shall provide written notification of the application to the appropriate subcenter nearest the qualified contractor's principal place of business. The director and the secretary of the department shall review the application in order to verify that the bond being sought by the applicant is needed by the applicant and that the contract is within the contractor's capability to perform and the contractor has not been denied a bond due to non-performance. The

director and the secretary of the department shall either approve or disapprove the application. If the application is approved, the surety company shall contract with and issue a bond to the qualified contractor in the manner provided for herein.

The director may use money in the fund, provided that the Legislature creates said fund, to guarantee the bonds issued by approved surety companies for qualified contractors who have applied to the director on behalf of such qualified contractors for a bond to be issued under the program.

If the director and the secretary of the department approve the application of such an approved surety company, then the director shall enter into an agreement with the surety company whereby the company shall enter into a contract with and issue the required bond to the qualified contractor at the standard fees and charges usually made by the surety for the type and amount of the bond issued to the qualified contractor. The bond issued by the surety company shall be guaranteed by money in the fund, provided it is created. In return, the surety company shall agree to promptly remit to the director all fees or charges or other amounts collected by the company from the qualified contractor, except for the amounts of such fees and charges the director agrees to provide to the surety company as compensation to the company for entering into the contract. The surety company shall also agree to make a reasonable, good faith effort to pursue and collect any claims it may have against a qualified contractor who defaults on such bonds, including but not limited to the institution of legal proceedings against the defaulting contractor, prior to collecting on the guarantee; again, in return for such compensation to which the director and the surety company agree.

The money to be used to guarantee bonds and to pay defaulted bonds pursuant to this Section shall be all the money in the Louisiana Small Business Bonding Assistance Fund that is not otherwise expended, encumbered, or allocated for purposes provided for elsewhere in this executive order, provided said fund is created by the Legislature. However, the full faith and credit of the State of Louisiana shall not be pledged to secure the bonds, and the state's liability shall be limited to the money appropriated by the Legislature.

Provided that the Legislature creates said fund, the director shall immediately deposit into the fund, all fees, charges, or other amounts collected by the director from the issuance of bonds as provided for herein.

E. Qualification for Technical and Support Assistance - Provided that the Louisiana Legislature establishes the Louisiana Small Business Bonding Assistance Fund, any resident minority-owned or women-owned small business contractor shall apply for the technical and support assistance provided herein at any subcenter in the state.

The subcenter, based upon standards established by the director, shall perform an initial evaluation of the applicant to determine whether he is qualified to participate in the program and whether he has sufficient capability to benefit from the program, the level of such capability, and his corresponding needs for the types of assistance provided for herein. The

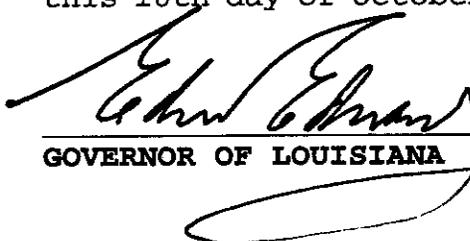
G. Other - Any other duties and functions as required by the Governor.

SECTION 5: All departments, commissions, boards, agencies, and officers of the State, or any political subdivision thereof, and in particular, the Division of Administration, the Office of the Louisiana Small Business Development Center and each subcenter, the Department of Insurance, the Louisiana Public Finance Authority, and the Northeast Louisiana University, School of Construction, are authorized and directed to cooperate with the Louisiana Small Business Bonding Assistance Program in implementing the provisions of this Executive Order.

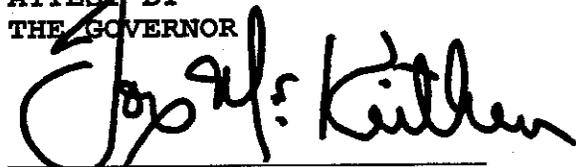
SECTION 6: The provisions of this Executive Order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.



IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 18th day of October, 1993.


GOVERNOR OF LOUISIANA

ATTEST BY
THE GOVERNOR


SECRETARY OF STATE