

PRESIDENT CLINTON SUPPORTS AFFIRMATIVE ACTION

March 12, 1996

The President supports affirmative action programs that are fair, effective, and balanced.

Adarand

- In Adarand, the Supreme Court confirmed that the federal government can use affirmative action programs to remedy the effects of racial discrimination. It made clear, however, that such programs must serve a compelling interest and must be narrowly tailored.
- After the Adarand decision, while reaffirming his commitment to affirmative action programs, the President instructed Federal agencies to work with the Department of Justice to ensure that such programs comply with the Supreme Court's test.

Procurement Programs

- After a thorough review of legislative history and economic and statistical data, the Department of Justice concluded that there still exists a compelling need for Federal procurement programs that benefit disadvantaged minority businesses.
- To that end, the Justice Department has been working with agencies to propose government-wide regulatory changes to ensure that Federal procurement programs are narrowly tailored to meet the constitutional standards of Adarand.
- The proposal -- which is not yet final -- would change the administration of these programs, but would not eliminate them.

SBA's 8(a) Program

- The 8(a) program is not being eliminated or suspended.
- The Administration strongly supports the 8(a) program and believes that it significantly increases opportunities for small and disadvantaged businesses. As defined by Congress, the 8(a) program is a business development program that assists firms owned and controlled by socially and economically disadvantaged individuals. Eligibility for the 8(a) program is not limited to members of minority groups.
- The Department of Justice found that the 8(a) program meets the constitutional requirements of Adarand and is currently defending the program against several court challenges.
- The SBA is working to improve the efficiency and overall operation of the 8(a) program.

Rule of Two

- As a result of the Justice Department's review and recommendation, the Department of Defense suspended use of the Rule of Two set-aside in October 1995 after several cases were filed challenging the constitutionality of that program. The Department of Defense is working to create additional opportunities for minority-owned businesses, consistent with Adarand.
- The Justice Department has not recommended the suspension of any other procurement programs -- other than the Rule of Two -- as a result of its review of all federal procurement programs.

Other Affirmative Action Programs

- The Justice Department has already issued guidance for federal employment programs that clarifies the appropriate scope and duration of affirmative action in federal hiring.
- The Justice Department separately will analyze other programs, such as direct federal aid programs and government grants. That analysis is ongoing.
- Consistent with the President's commitment to fair, effective, and balanced affirmative action programs, he has publicly opposed efforts to eliminate longstanding programs designed to provide opportunities for minorities and women. To that end, the Administration has opposed the Dole-Canady anti-affirmative action legislation that would turn back the clock on the federal government's historic, bipartisan commitment to equal opportunity. Additionally, the Administration has opposed the extreme California ballot initiative that would eliminate all affirmative action in California for minorities and women.