

Minority Business Enterprise Certification Program (Act 1456 of 2003) Rules and Regulations

I. Introduction

Act 1456 of 2003 states “The Division of Minority Business Enterprise of the Arkansas Economic Development Commission shall promulgate rules to create a certification process for minority business enterprises.”

II. Definitions

- A. “Minority Business Enterprise (MBE)” is an independent business entity, which is at least 51% owned by one (1) or more minority persons.
- B. “Minority” means a lawful permanent resident of the State of Arkansas who is an African American, Hispanic American, American Indian, Asian, or Pacific Islander.
- C. “Minority Business Advisory Council” means the Advisory Council to the Division of Minority Enterprise created under Arkansas Code 15-4-303.
- D. “Director” is the Administrator of the Division of Minority Business Enterprise of the Arkansas Economic Development Commission.
- E. “Commission” means the Arkansas Economic Development Commission.

III. Eligible Applicants

Eligible applicants are registered Arkansas Businesses which can submit documentation (see Appendix) to the Arkansas Economic Development Commission's Division of Minority Business Enterprise to prove they are at least 51% owned by a minority or group of minorities, legally entitled to conduct business in the United States, and can demonstrate the capacity to conduct business with the State of Arkansas. The firm must be owned by a permanent resident or residents of the state of Arkansas and its annual revenue must not exceed \$10,000,000.

IV. Certification Benefits

Certified MBEs will enjoy several benefits. They will be designated on the commission's list of minority firms as a certified MBE. A certificate signed by the Executive Director of the Arkansas Economic Development Commission and the Director of the Division of Minority Business Enterprise will document this designation. The State Procurement Director, state agency Procurement Agents, college and university Procurement Officials, Constitutional offices and minority business officers will be notified of firms which have attained minority certifications.

V. Certification Reciprocity

Eligible firms that are actively certified as MBEs with the Arkansas-Mississippi Minority Business Council (AMMBC) or one of their national affiliates, the Small Business Administration (SBA) 8(a) program, or the Arkansas Highway and Transportation Department (AHTD) Disadvantaged Business Enterprise (DBE) program may apply for reciprocity with the State of Arkansas.

VI. Application Process

Interested applicants shall complete the required forms and send them to the commission's Division of minority Business Enterprise with copies of the required documents as listed in the Appendix. The department shall review the documents, check the applicant's customer references, and may schedule a pre-certification interview/site visit with the applicant. Vendor agreements, invoices, partnership agreements, and articles of incorporation that relate to business with the State of Arkansas are subject to examination.

VII. MBE Operations

Certified Minority Business Enterprises are subject to periodic reviews by the commission. It is mandatory to report any change in the status of the business affecting the ability to meet product demand, and/or any change in ownership, with a notarized affidavit. All business transactions, including billing and the remittance of such, must be conducted under the name appearing on the MBE certificate.

VIII. Annual Re-Certification

Certified MBEs shall send a letter to the Division of Minority Business Enterprise thirty (30) days prior to their current expiration date stating their desire to maintain certification. The letter shall state that the firm is still 51% minority owned, and must be signed by the firm's executive officer and the chairman of its board of directors, if applicable. The commission maintains the right to re-evaluate the applicant prior to renewal.

IX. Revocation

The Director of the Division of Minority Business Enterprise has the authority to suspend, and/or, under just cause, revoke the certification of any business which fails to comply with the intent of this program. Any business with a revoked certification will be ineligible to re-apply to the program for a period of one year. Prior to revocation of an MBE certification under this regulation, the MBE shall be afforded an opportunity to discuss with the Director the issues which have given rise to the revocation.

X. Moratorium

Given evidence of non-compliance with these regulations, the Director of the Division of Minority Business Enterprise has the authority to place a moratorium for one year on the new certification of any business sector for which two or more firms have received sanctions within any six month period.

XI. Appeals

- A. Any applicant who is denied their request for certification because they were unable to prove their minority status may appeal the decision to the Minority Business Advisory Council. A written notice of appeal must be received by the department no more than thirty (30) days after the date of the notice of denial. The Minority Business Advisory Council shall meet to hear the appeal within forty-five (45) days of receipt of the written notice.
- B. Certified businesses may appeal a revocation action to the Minority Business Advisory Council. A written notice of appeal must be received by the department within thirty (30) days after the date on the notice of the revocation. The Minority Business Advisory Council shall meet to hear the appeal within forty-five (45) day of receipt of the written notice.

Appendix

List of Documents

- 1) Completed application form
- 2) Copy of the Articles of Incorporation, or Fictitious Name Certificate
- 3) Copy of bank signature card
- 4) Federal Tax Identification Number
- 5) Copy of Birth Certificate/Passport/Green Card/Tribal Card
- 6) Copy of resume of owner(s)
- 7) Proof of state and federal income tax filing for previous 3 years, business or personal
- 8) Copy of insurance*
- 9) Bonding information*
- 10) Copy of professional license*
- 11) Partnership or Operating Agreement for businesses with 2 or more owners, evidencing division of shares and profit distribution

*If required as a normal function of the business