Application and Instruction Guide for Certification as a Minority, Women, and Veteran Business Enterprise

pennsylvania
DEPARTMENT OF GENERAL SERVICES

Department of General Services
Bureau of Minority and Women Business Opportunities
North Office Building ▫ 401 North Street, Room 611 ▫ Harrisburg, PA 17120-0500

717-783-3119 ▫ FAX: 717-787-7052 ▫ gs-bmwbo@pa.gov

Rev. 1/2012

Important Information. Read carefully.

PLEASE NOTE:

- ✓ **For businesses to be considered for certification, the majority owners <u>must</u> be U.S. citizens. Green cards cannot be used to qualify.**
- ✓ **An out-of-state company must first be certified in its home state before it can be considered for certification in PA. This must be a state-level certification, if available.**
- ✓ **There is no fee for processing your application. In addition, free assistance is available. If you have questions about the application or your company's qualifications, call 717-783-3119 or e-mail BMWBO at gs-bmwbo@pa.gov.**

Instructions for Preparing Your Application Packet

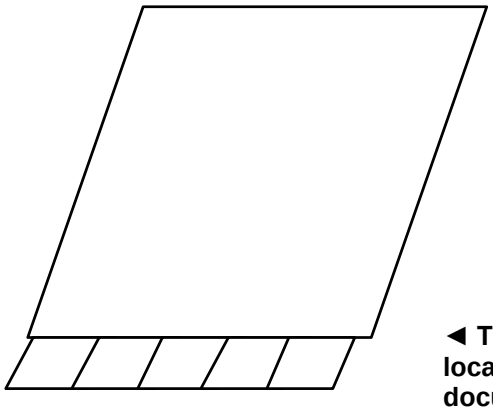
In addition to questions that must be answered, this application form lists documents that should accompany your completed application when you submit it to BMWBO. These documents are necessary for evaluating your application.

Small tabs should be attached to the bottom edge of documents or to sheets of paper separating each section of similar documents. The tabs can be attached with tape or inserted into plastic tab holders available at any office supply store.

Typed or hand-printed on each tab should be a word or two describing that document or set of documents. The documents should be arranged in the order they are requested on the application form. Each tab should be easy to read when the packet is closed. This will facilitate our review of your application.

If you cannot provide a particular document that is requested, we recommend inserting a sheet of paper at the place in your application packet where the document would normally be located. Use the sheet to briefly explain why the document is not included.

Certification Application with documentation attached ►



◄ Tabs indicate the location of similar documents (taxes, resumes, bylaws, etc.)

pennsylvania
DEPARTMENT OF GENERAL SERVICES

Dear Business Owner:

The Department of General Services (DGS) is pleased to provide the Commonwealth of Pennsylvania's application for certification as a Minority Business Enterprise (MBE), Women Business Enterprise (WBE), or Veteran Owned Business Enterprise (VOBE).

This booklet contains the Statements of Policy governing the Commonwealth's MBE/WBE Certification Program, definitions, instructions for completing and submitting the application, and an application form. The form can be removed at the perforations. We recommend that you retain the rest of the booklet for later reference.

Free training in state contracting and purchasing is available from BMWBO. For our current workshop schedule, go to www.dgs.state.pa.us/bcabd/ical/calendar_v4.asp.

If you do not have Internet access or need assistance completing your certification application, please call us at 717-783-3119. In Western Pennsylvania, call 412-442-5872, and in Eastern Pennsylvania, call 215-965-1105. Or direct your inquiries by email to gs-bmwbo@pa.gov.

Best wishes in your business endeavors.

Sincerely,

Curtis Burwell
Equal Opportunity Manager

Bureau of Minority & Women Business Opportunities
North Office Building | 401 North Street, Room 611 | Harrisburg, PA 17120-0500 | 717.783.3119 | F 717.787.7052 |
www.dgs.state.pa.us

STATEMENT OF POLICY

Important: Be sure to read the Statement of Policy carefully before completing the application form. The Statement of Policy explains the Certification Program and its rules.

STATEMENTS OF POLICY

Title 4--ADMINISTRATION

DEPARTMENT OF GENERAL SERVICES

[4 PA. CODE CHS. 58 AND 68]

Internal Guidelines for MBE/WBE Certification

[35 Pa.B. 5129]

The Department of General Services (Department), under the authority of Executive Order No. 2004-6 (§§ 1.451--1.455 (relating to minority and women business enterprises)), adds a statement of policy in Chapter 58 (relating to contract compliance) regarding internal guidelines for certification of Minority Business Enterprise/Women's Business Enterprise (MBE/WBE) and deletes the prior statement of policy in Chapter 68, Subchapter C to read as set forth in Annex A.

Purpose

Executive Order 2004-6 rescinded and replaced Executive Order 1996-8. The Department is deleting and replacing its statement of policy to reflect current Executive Order 2004-6 and to revise the Internal Guidelines for MBE/WBE Certification.

Overview of Changes in Statement of Policy

The statement of policy states the criteria for determination of applications for certification as an MBE or WBE and describes the procedures for businesses to follow in applying for certification. In response to Executive Order 1996-8, the Department amended the statement of policy in 2002. See 32 Pa.B. 615 (February 2, 2002). The statement of policy in Chapter 58 retains much of the language of the statement of policy published in 2002. The Department considered amending the 2002 statement of policy but decided to rescind the policy, issue a new statement and relocate the statement of policy to Chapter 58.

The businesses certified under the statement of policy participate in construction and procurement as regulated by Part III, Subpart C (relating to construction and procurement). Subpart C contains a general article, an article regarding construction and an article regarding procurement. The deleted statement of policy was in Chapter 68 (relating to contract compliance) under Article III (relating to procurement). The Department proposes to update and relocate the regulations remaining in Chapter 68 in the near future.

The new statement of policy will be in Chapter 58 under Subpart C, Article I (relating to general). The decision to place the new statement of policy in Article I signifies that the Department has one unified policy for construction and procurement. The statement of policy will:

a. Reflect the change in the name of the Department's Bureau of Contract Administration and Business Development to the Bureau of Minority and Women Business Opportunities (BMWBO).

b. Recognize the BMWBO's authority to accept certifications by third parties to include private certification entities in addition to public certification bodies.

c. Expressly limit certification to "for-profit" businesses.

d. Identify the evidence required to establish "minority" origin.

e. Ensure that licensing as an indicia of operational control will be required only when State or Federal law mandates that the minority or woman business owner possess the license.

f. Permit certification under defined circumstances when the securities constituting ownership of the business are held by a corporation or trust.

g. Explicitly permit certification denial if an applicant refuses to answer questions relevant to certification.

h. Enable businesses to continue to participate in the program beyond the current 8-year limitation period.

Affected Individuals and Organizations

The Department is committed to ensuring nondiscrimination in contracting and increasing the opportunities for participation by disadvantaged businesses in Commonwealth contracts. Approximately 1,700 businesses are certified by the Department as an MBE or WBE. The Department received input from the Governor's Advisory Committee on Minority and Women Business Opportunities. The statement of policy will benefit currently certified and potential MBEs and WBEs by clarifying the requirements for certification and by eliminating the 8-year limitation on participation in the program.

Fiscal Impact

The Department will continue to incur personnel and other costs in administering the MBE/WBE certification program. During Fiscal Year 2003-2004, the Department spent $338,000 to operate the Certification Division in the BMWBO.

Paperwork Requirements

The statement of policy will not increase the paperwork associated with the MBE/WBE certification process.

Effective Date

The statement of policy shall be effective upon publication in the *Pennsylvania Bulletin*.

Contact Person

For information regarding this statement of policy, contact Mary Benefield Seiverling, Assistant Chief Counsel for Government Operations, Office of Chief Counsel, Department of General Services, 603 North Office Building, Harrisburg, PA 17125, (717) 787-5599.

(*Editor's Note:* The regulations of the Department, 4 Pa. Code, are amended by deleting a statement of policy in §§ 68.201--68.210 and by adding a statement of policy in §§ 58.201--58.210 to read as set forth in Annex A.)

Fiscal Note: 8-10. No fiscal impact; (8) recommends adoption.

STATEMENT OF POLICY

Annex A
Title 4. Administration
Part III. Department of General Services
Subpart C. Construction and Procurement
Article I. General
Chapter 58. Contract Compliance
Subchapter C. Internal Guidelines for
MBE/WBE Certification- - Statement of Policy

Sec.

58.201. Policy.
58.202. Definitions.
58.203. Certification of eligible MBEs and WBEs.
58.204. Eligibility standards.
58.205. Joint venture.
58.206. Approved certification.
58.207. Certification denial.
58.208. Decertification.
58.209. Review of decertifications.
58.210. Hearing.

§ 58.201. Policy.

(a) Executive Order No. 2004-6, 4 Pa. Code Chapter 1, Subchapter LL (relating to minority and women business enterprise), established the Department as the central agency to manage and develop the participation of minority and women-owned businesses and other disadvantaged businesses in Commonwealth contracts. The Executive Order directed the Department to expand the pool of minority and women-owned businesses that are certified as MBEs and WBEs. The Department has assigned these responsibilities to its BMWBO.

(b) This subchapter establishes guidelines that the Department will follow in determining whether a business entity should be certified and which business entities, previously certified, shall be decertified. The Executive Order and 62 Pa.C.S. Part I (relating to Commonwealth Procurement Code) give the Department broad authority governing the management and development of the participation of MBEs and WBEs and governing the formulation of general procurement policy. This subchapter gives direction to BMWBO, executive agencies and others as to how that broad authority and agency discretion will be exercised. This subchapter constitutes guidelines to BMWBO, the executive agencies and others within this Commonwealth. This subchapter is not and does not purport to operate as a regulation and does not have or purport to have the force of law.

§ 58.202. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

BMWBO – The Bureau of Minority and Women Business Opportunities within the Department.

Certification – A determination made by the BMWBO that a for-profit business entity is an MBE or WBE. In the alternative, BMWBO may, by declaration, accept the certification program of other public or private bodies if the certification program conforms substantially to the program of BMWBO established in Chapter 1, Subchapter LL (relating to minority and women business enterprise). When the certification program of another public or private body has been declared to be accepted, MBE or WBE will be deemed certified under this program if the certification remains current and if the business entity has not been decertified.

Department – The Department of General Services of the Commonwealth.

MBE – Minority Business Enterprise – A small for-profit business concern that is one of the following:

(i) A sole proprietorship, owned and controlled by a minority.

(ii) A partnership or joint venture controlled by minorities in which at least 51% of the beneficial ownership interest is held by minorities.

(iii) A corporation or other business entity controlled by minorities in which at least 51% of the voting interest and 51% of the beneficial ownership interest are held by minorities.

Minority –

(i) A person who is a citizen of the United States who is a Black American, Hispanic American, Native American, Asian-Pacific American or Asian-Indian American.

(A) *African Americans* –

(I) Persons having origins from any of the Black groups of Africa.

(II) The term includes persons having origins in any of the original peoples of the Cape Verde Islands.

(B) *Hispanic American* – Persons having their origins from one or more of the Spanish-speaking peoples of Mexico, Puerto Rico, Cuba, Central or South American or the Caribbean Islands.

(C) *Native Americans (Alaskans)* – Persons having origins from one or more of the original peoples of North America and who are recognized as an Indian by a tribe or tribal organization.

(D) *Pacific Islanders* – Persons having origins from one or more of the original peoples of the Pacific Islands, including Samoa and the Philippine Islands.

(E) *Asian-Americans* – Persons having origins from one or more of the original peoples of the Far East, Southeast Asia including China, Japan, Korea, India, Pakistan and Bangladesh.

(ii) To establish origins of a particular "minority" group, the applicant shall provide a document issued by a Federal, state or local governmental entity establishing that either the applicant, the applicant's biological parents or the applicant's biological grandparents are members of the minority group.

Secretary – The Secretary of the Department or a designated deputy secretary of the Department.

Small business – A business in the United States which is independently owned, is not dominant in its field of operation and employs no more than the maximum number of employees established by 62 Pa.C.S. § 2102 (relating to definitions).

WBE – Women's Business Enterprise--A small business that is one of the following:

(i) A sole proprietorship, owned and controlled by a woman.

(ii) A partnership or joint venture controlled by women in which at least 51% of the beneficial ownership is held by women.

(iii) A corporation or other entity controlled by women in which at least 51% of the voting interest and 51% of the beneficial ownership interest are held by women.

Women – United States citizens who are of the female gender.

§ 58.203. Certification of eligible MBEs and WBEs.

(a) *Purpose*. The purpose of this subchapter is to ensure that only those for-profit businesses and businesses which are owned and controlled in both form and substance by one or more minorities or women are certified.

(b) *Application form*. BMWBO will provide applications for businesses that are sole proprietors, partnerships, corporations and for other business entities. The appropriate application will be distributed to the businesses for completion. In the ordinary instance, it will be a reasonable exercise of agency discretion for BMWBO to decline to certify a business that fails to complete the application form. A distortion, false statement or nondisclosure of information that is a material misrepresentation will, in the ordinary instance, warrant denial of certification and may result in referral to other agencies for consideration of other civil or criminal actions.

(c) *Acceptance of other public jurisdictions' certification*. If the business has a current certification from a BMWBO-approved public or private body, evidence of that certification may be obtained and relied upon by BMWBO in lieu of completing a certification application. BMWBO may obtain, as part of the application process, information from out-of-State businesses on current MBE/WBE certification from the business' home state governmental certifying body and from other public jurisdictions. Out-of-State businesses must first be certified by their home state before applying for certification with the Department.

§ 58.204. Eligibility standards.

The following standards will be used by BMWBO in determining whether a business is owned and controlled by one or more minorities or women and therefore eligible to be certified as an MBE or WBE:

(1) *Business history*. The applicant shall have actually done business for 1 year before submission of the application, or if it has been in business for less than 1 year, the established operating business shall have a 2-year business plan reviewed by a Small Business Development Center or by a Pennsylvania enterprise center authorized by the Minority Business Development Agency of the United States Department of Commerce.

(2) *Ownership*.

(i) Bona fide minority and women group membership may be established on the basis of the individual's claim that he is a member of a minority group or she is of the female gender. Verification of group membership may be accepted through submission of birth certificates, military records, passports or tribal cards.

(ii) An eligible MBE or WBE under this subchapter shall be an independent business. The ownership and control by minorities or women shall be real, substantial and continuing and shall go beyond the pro forma ownership of the business as reflected in its ownership documents. The minority and women owners shall enjoy the customary incidents of ownership and shall share in the risks and profits commensurate with their ownership interest as demonstrated both by an examination of the substance and form of arrangements. Recognition of the business as a separate entity for tax or corporate purposes is not necessarily sufficient for recognition as an MBE or WBE. In determining whether a potential MBE or WBE is an independent business, BMWBO will consider all relevant factors, including the date the business was established, its resources, and the nature of the financial and lease arrangements. The business relationship with non-MBE or WBE businesses, in areas such as personnel, facilities, equipment, financial or bonding support, or both, and other resources will also be considered. The business' relationship with prime contractors will be examined to determine whether a pattern of exclusive or primary dealings with a prime contractor compromises the independence of the potential MBE or WBE business.

(iii) The contributions of capital and expertise by the minority or women owners to acquire their interests in the business shall be real and substantial. Examples of insufficient contributions include a promise to contribute capital, a note payable to the business or to an owner who is not a minority or woman or the mere participation as an employee rather than as a manager.

(iv) For purposes of determining ownership, BMWBO will presume as not being held by a minority or woman all interests in a business or other assets obtained as the result of a gift, or transfer without adequate consideration, if the donor is:

(A) Involved in the same business for which the individual is seeking certification, or an affiliate of that business.

(B) Involved in the same or a similar line of business.

(C) Engaged in an ongoing business relationship with the business, or an affiliate of the business, for which the individual is seeking certification.

(v) To overcome this presumption and permit the interests or assets to be counted, the minority or women owners must demonstrate that:

(A) The gift or transfer to the minority or women owners was made for reasons other than obtaining certification as an MBE/WBE.

(B) The minority or women owners actually control the management, policy, and operations of the business, notwithstanding the continuing participation of the donor who provided the gift or transfer.

(3) *Management control*. The minority or women owners shall possess the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions on matters of management, policy and operations. The minority or women owners shall hold the highest officer position in the company (for example--chief executive officer or president). In a corporation, the minority or women owners shall control the board of directors. The business may not be subject to formal or informal restrictions which limit the customary discretion of the minority or women owners. There may be no restrictions through, for example, by-law provisions, partnership agreements or charter requirements for cumulative voting rights or otherwise that prevent the minority or women owners, without the cooperation or vote of an owner who is not a minority or woman, from making a business decision of the business. If the actual management of the business is contracted out to, or otherwise has been placed with individuals other than the minority or women owners, those persons who have the ultimate power to hire and fire the managers will ordinarily be considered as controlling the business.

(4) *Operational control*. The minority or women owners shall demonstrate through the application sufficient experience, knowledge and expertise to operate that particular business. The minority or women owners shall have an overall understanding of and technical competence directly related to the type of business in which the business is engaged. The minority and women owners are not required to have experience or expertise in every critical area of the business' operations, or to have greater experience or expertise in a given field than managers or key employees. The minority and women owners shall have the ability to intelligently and critically evaluate information presented by other participants in the business' activities

and to use this information to make independent decisions concerning the business' daily operations, management, and policymaking. Generally, expertise limited to office management, administration, or bookkeeping functions unrelated to the principal business activities of the business is insufficient to demonstrate control. If State or Federal law requires the business owner to have a particular license or other credentials, the minority or women business owner shall possess the required license or other credentials. If State or local law requires the business to have a particular license or other credentials to own or control, or both, a certain type of business, the minority or women owned business shall possess the required license or other credentials. Additionally, if the owners of the business who are not minorities or women are disproportionately responsible for the operation of the business, the business will ordinarily be considered as not being controlled by minorities or women and not qualifying as an MBE or WBE. Notwithstanding anything in this subchapter to the contrary, BMWBO will not certify any business or individual that cannot produce a license or other authorization required by state or local law to operate the business.

(i) Securities, which constitute ownership or control, or both, of a corporation for business purposes of establishing it as an MBE or WBE shall be held directly by minorities, women, corporations or trusts. Corporations or trusts, holding the securities, must present proof that they are at least 51% controlled and owned by women or minorities.

(ii) Complete information regarding a change in ownership, control or financial condition must be provided to the BMWBO, which may consider a business' failure to provide promptly relevant information in decertification decisions.

(5) Circumstances for special review. In addition to the standards in paragraphs (1)--(4), BMWBO will ordinarily give special consideration to the following circumstances in determining eligibility under this subchapter:

(i) Newly formed businesses whose ownership or control, or both, has recently changed will be closely scrutinized to determine the reasons for the change in the business.

(ii) A previous or continuing, or both, employer-employee relationship between or among present owners will be carefully reviewed to ensure that the employee-owner has management responsibilities, requisite knowledge and expertise to direct and operate the business.

(iii) A relationship between an MBE or WBE and a business which is not an MBE or WBE, which has an interest financially or otherwise in the MBE or WBE, will be carefully reviewed to determine if the interest of the non-MBE or WBE conflicts with the ownership and control requirements of this subchapter.

(iv) The refusal of an applicant to answer questions that would assist the BMWBO staff in resolving issues or concerns regarding ownership, managerial control, or operational control, may result in the denial of the application.

§ 58.205. Joint venture.

(a) BMWBO will ordinarily find a joint venture eligible under this subchapter if the MBE or WBE partner of the joint venture meets the other certification criteria. The MBE or WBE partner shall be responsible for a clearly defined portion of the work to be performed, and the MBE or WBE shall maintain majority ownership and control in management responsibilities, risks and profits of the joint venture.

(b) BMWBO will ordinarily obtain from a business seeking certification as a joint venture MBE or WBE additional information needed to make a determination.

§ 58.206. Approved certification.

(a) If BMWBO determines that the applicant meets the criteria to be certified as an MBE or WBE, the applicant will be issued a certification number in recognition of its status.

(b) An MBE or WBE certification notice, unless revoked by decertification, will provide for automatic expiration 24 months from the date of issuance. If there is a change in ownership or control of the business, the MBE or WBE shall forward information within 2 weeks of the change to update the original application. Failure to comply may be cause for decertification.

(c) Applicants will be certified in the areas applied for, consistent with the field of expertise demonstrated through the application. Additional endeavors engaged in by the business shall be documented and submitted to BMWBO prior to approval of certification in those additional areas.

(d) A recertification of a previously certified MBE or WBE will ordinarily be treated as a new applicant for certification. The requirements of this subchapter will be applied to the recertification applicant, and no benefits or rights will be given to the recertification applicant because of its previous certification.

Applicants may be recertified for an additional 24 months.

(e) An application which upon its face does not claim ownership or control by a minority or women as defined by this subchapter will ordinarily be denied.

§ 58.207. Certification denial.

(a) The denial of certification by BMWBO will not ordinarily be reconsidered, except under subsection (b). BMWBO may accept reapplications for certification, and information and documentation correcting technical deficiencies in the MBE/WBE certification application at any time. BMWBO will reject reapplications where the reason for the denial was substantive unless deficiencies in ownership and control have been corrected and unless a sufficient period of time, usually 1 year, has passed with the new provisions on ownership and control in place. BMWBO will exercise care to ensure that directors, officers and employees of businesses that have been denied certification are not reapplying under new business names in an attempt to frustrate BMWBO's review.

(b) BMWBO will permit reconsideration of the denial of certification if the submittal is made in writing within 30 days of the denial letter. BMWBO will forward to the Secretary or a designee the information submitted in support of reconsideration. A decision on reconsideration will be made by the Secretary or a designee.

(c) A person who knowingly makes or causes to be made, a false, deceptive or fraudulent statement on the application will be denied certification by BMWBO. BMWBO will ordinarily refer the statements to the appropriate authorities for possible further criminal or civil action.

§ 58.208. Decertification.

(a) BMWBO will ordinarily decertify businesses for reasons relating to the considerations in this subchapter including the following:

(1) The business is no longer owned or controlled by minority or women.

(2) The business received certification by knowingly submitting false and misleading information.

(3) The business knowingly allowed the misuse of its certification status.

(4) The business failed to respond, cooperate or otherwise comply with a request for information from BMWBO or another Commonwealth department, agency, commission, board, office, official or other representative.

(5) There are other causes affecting the business's status or responsibility, or both, as may be determined by BMWBO to warrant decertification.

(b) BMWBO will send a business a Notice of Proposal to Decertify (Notice) by certified mail. The Notice will:

(1) Specify the reasons for the proposed decertification in terms sufficient to put the business on notice of the conduct or transactions upon which the notice is based.

(2) State the causes relied upon under subsection (a) for proposing decertification.

(3) Advise that, within 20 days after receipt of the Notice, the business may submit, in person, in writing or through a representative, information in opposition to the proposed decertification, including information that raises a genuine dispute over the material facts.

(4) State the potential effect of the proposed decertification.

(5) Advise that the Director of BMWBO will make this decision.

(c) The decision letter informing the business that it has been decertified will also inform the decertified business of rights of review it has.

(d) If the actions of the business appear to be flagrant criminal conduct, BMWBO may, upon the filing of an indictment, information or other charge, temporarily suspend the certification until the determination is made to decertify or to reinstate. A review of this temporary suspension may be made by the Secretary.

§ 58.209. Review of decertifications.

(a) The Secretary or a designee will ordinarily require that requests for review of decertifications be made in writing and that the request recite the grounds upon which the request is based.

(b) The Secretary or a designee may reject requests that are untimely or insufficient. Ordinarily, requests made more than 30 days after the date of the decertification letter will be considered untimely. Further, requests that do not raise issues suggesting that

the decertification is in error will be denied as insufficient.

(c) In the exercise of discretion, the Secretary or a designee may direct that a hearing be conducted under § 58.210 (relating to hearing).

§ 58.210. Hearing.

(a) *Scope*. This hearing procedure applies only to requests for review of the decertification decision. The Secretary may delegate to a designee, usually a hearing officer, the responsibility for conducting a fact-finding hearing and for making a report and recommendation. Fact-finding hearings will only be held when the business requests a review under § 58.209 (relating to review of decertifications).

(b) *Purpose*. The fact-finding hearing will be held to determine the operative and relevant facts forming the basis for the decertification action as delineated in the written notice of decertification action provided to the business. The hearing will also determine the sufficiency of the grounds for the review as delineated in the writing. The results of proceedings before BMWBO will also be considered. The fact-finding hearing affords the business which has been decertified an additional opportunity to demonstrate that the facts upon which the decertification is based are insufficient, incorrect, misleading or otherwise do not warrant the decertification. In addition to presenting material relevant to disputed facts, the business may present other information and arguments in accordance with the grounds stated in the request for review showing why it should not be decertified. Other information may be used by the designee in making a recommendation to the Secretary.

(c) *Conduct of hearing*. If a hearing is warranted, it will be conducted under 2 Pa.C.S. §§ 502--508 and 701--704 (relating to Administrative Agency Law). If the BMWBO takes the action, it has the burden of proof.

DEFINITIONS

The following words and phrases serve as a guide to defining the Commonwealth's criteria for certification. For additional definitions, see the Statement of Policy.

Bureau – The Bureau of Minority and Women Business Opportunities.

Certification – A determination by the Bureau that a for-profit business entity is a Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Veteran Owned Business Enterprise (VOBE), or Service Disabled Veteran Owned Business (SDV).

Control – The authority to determine the direction of a business, including but not limited to capital investments and all other financial transactions; property acquisitions; contract negotiations; legal matters; selection and hiring of officers, directors, and employees; operating responsibility; cost-control; income and dividend matters; and the rights of other shareholders or partners.

This control must be real, substantial, and continuing. Control includes the power to direct, or cause the direction of, the management and policies of the business and to make the day-to-day decisions as well as major decisions concerning policy, management, and operations.

Control will be exemplified by possession of the requisite knowledge and expertise to run the particular business.

Control will not be deemed to exist in cases of simple majority or absentee ownership, or when a non-minority/non-female owner or employee of the firm is disproportionately responsible for its operation.

Department – The Department of General Services (DGS), Commonwealth of Pennsylvania.

Minorities – United States citizens who are Black Americans, Hispanic Americans, Native Americans, or Asian Americans as defined herein:

- **African (Black) Americans.** All persons having origins from any of the Black groups of Africa and all persons having origins in any of the original peoples of the Cape Verde Islands.
- **Hispanic Americans.** Persons having origins from any of the Spanish-speaking peoples of Mexico, Puerto Rico, Cuba, Central or South America, or the Caribbean Islands.
- **Native Americans.** All persons having origins from the original peoples of North America and who are recognized as Native Americans by a tribe or tribal organization.
- **Asian Americans.** All having origins from one or more of the original peoples of the Far East, Southeast Asia including China, Japan, Korea, India, Pakistan and Bangladesh.
- **Pacific Islanders.** All persons having origins from one or more of the original peoples of the Pacific Islands, including Samoa and the Philippine Islands

Veteran – A person who is a United States citizen who served on active duty with the U.S. Army, Air Force, Navy, Marines, or Coast guard for any length of time and at any place and who was discharged or released under conditions other than dishonorable. Reservists or members of the National Guard called to Federal activity or disabled from a disease or injury incurred or aggravated in the line of duty or while in training status also qualify as a veteran.

Minority Business Enterprise (MBE) – A for-profit business in which at least 51% of the beneficial ownership interest and control are held by a minority or minorities. In the case of a corporation, minorities must hold at least 51% of voting interest.

Minority & Women Business Enterprise (MWBE) – A for-profit business in which at least 51% of beneficial interest and control is held by minority women or by an equal combination of minorities and women. In the case of a corporation, women and minorities must also hold at least 51% of voting interest.

Prime Contractor – A company that provides goods and/or services directly to the State.

Women Business Enterprise (WBE) – A for-profit business in which at least 51% of beneficial interest and control is held by women. In the case of a corporation, women must also hold at least 51% of the voting interest.

Veteran Owned Business Enterprise (VOBE) – A for-profit business in which at least 51% of beneficial interest and control is held by a veteran. In the case of a corporation, veterans must hold at least 51% of the voting interest.

Service Disabled Veteran Owned Business (SDV) – A for-profit business in which at least 51% of beneficial interest and control is held by a person under the laws of the U.S. Department of Veterans Affairs for a disability rated at less than 30% and who is not classified as a Special Disabled Veteran, or a person who was discharged or released from active duty because of a service connected disability.

Instruction Guide

Firms seeking MBE, WBE, MBE/WBE, VOBE, and SDV certification must complete the enclosed application and submit it with required documentation, to:

Bureau of Minority and Women Business Opportunities
North Office Building
401 North Street, Room 611
Harrisburg, PA 17120-0500.

- **Faxed or emailed applications will not be accepted.**
- **Please print (in ink) or type your response to each item.**
- Enter your responses in the spaces provided. If more space is needed, attach additional sheets. If you need assistance, contact the Bureau at 717-783-3119 or by e-mail at gs-bmwbo@pa.gov.
- If an item does not apply to your business, please indicate "NA" (not applicable).
- Reference to documents filed with other parts of the Department, or agencies within the Commonwealth, is **not** adequate to verify eligibility. Copies of required documents must be provided in the tabbed section of the application.
- The certification application and copies of all documents must be readable.
- All items must be answered fully and all required documents are to be submitted. If all required information and documents are not submitted or the application is ineligible, your application will be classified by the Bureau as non-responsive or ineligible. Application materials will not be returned.
- **The completed application must be signed and notarized by the principal owner(s)** of the firm seeking certification.
- Before sending your application to the Bureau, make a copy for your own records. Do not send originals of important personal and business documents.

Within sixty (60) days, the applicant will be contacted regarding the status of the application.

Application processing time will be determined by the completeness of the application. Make sure all questions are answered and copies of all required documents are submitted.

After the application is received, a complete review is conducted. An on-site visit to the firm may be conducted, if deemed necessary.

After review, the application is presented before the Bureau's Certification Review Board. If the Board approves the application, a certificate and certification number are issued. If the application is denied, the firm will receive a letter outlining the Bureau's reason(s) for denial.

Certification entitles a firm to recognition by state agencies as a Minority and/or Women Business Enterprise (MBE/WBE), Veteran Owned Business Enterprise (VOBE), or a Service Disable Veteran Owned Business Enterprise (SDV). Only certified firms are included in the database used by state agencies to identify MBEs, WBEs, VOBEs, and SDVs. The Bureau also refers names of certified firms to city, county, and local governments, and to contractors bidding on state contracts.

Certification does <u>not</u> guarantee that a firm will receive state contracts. Certified firms are urged to actively seek contracting opportunities and to market their goods and services to the Commonwealth. For information on free state contracting workshops for small businesses, contact the Bureau at 717-783-3119 or by e-mail at gs-bmwbo@pa.gov.

◆ ◆ ◆

Please read these instructions carefully before completing the application:

<u>1a – 1b. Veteran Owned Business Enterprise (VOBE) or Service Disabled Veteran Owned Business (SDV).</u>

Check the box if the firm is applying for certification as a VOBE or SDV.

2a. <u>Information on applicant business</u>.

List the firm's **legal name** on the first line. Only the firm's legal name can be used. If certification is approved, the firm's legal name must be used whenever it conducts business with the Commonwealth, to assure that it is correctly identified as a certified MBE/WBE.

List the **street address** of the firm's **headquarters** (not a post office box number or attorney's address).

Provide the firm's **telephone and fax** numbers, and **e-mail** address. If the firm has a **website**, please provide the address.

Provide the **Federal Identification Number** for the company. If the firm has an EIN (Employer Identification Number), enter it here. If not, provide the primary owner's SSN (Social Security Number).

Provide the company's **PA State Vendor Registration Number.** To register, go to www.pasupplierportal.state.pa.us. For questions concerning the vendor registration process, call 1-877-435-7363 or 717-346-2676.

2b. Information on primary owner

List the primary owner's name, title within the firm, home address, and telephone number. The "primary" owner is the minority or woman owner who holds the largest percentage of ownership in the firm. If more than one owner fits this description, attach an additional sheet to list all appropriate owners.

3. Firm is applying as . . .

Do not complete this box until you read the **Definitions** portion of this application packet, especially the definitions for "Minority," "Veteran", "Minority Business Enterprise (MBE)," "Women Business Enterprise (WBE)," and "Minority & Women Business Enterprise (MWBE)", Veteran Owned Business Enterprise (VOBE)", and "Service Disabled Veteran Owned Business Enterprise (SDV)." Choices refer to the ethnic/racial background, gender, and veteran status of the primary owner(s). In some cases, more than one choice will be checked.

4. Attorney or law firm

List the name, address, telephone and fax numbers, and e-mail address of firm's attorney or law firm. If the firm is not represented by an attorney or law firm, mark "none."

5. Products and/or services

List all products and/or services the firm presently provides. A catalog or inventory list can be used to both list and verify products. If more space is needed, attach additional sheets. Also provide verification in the form of manufacturers' agreements, invoices, etc.

6. Legal structure of firm

Check the term that best describes the firm's legal structure. If "other" is checked, you must give a brief explanation.

7. Type of business activity

Check the term that best describes the firm's type of business. If "other" is checked, you must give a brief explanation.

8. Date firm was established and name of primary owner when firm was established

List the firm's original starting date and owner.

9. Date current primary owner acquired controlling interest in the firm.

List date on which applicant(s) purchased, established, or otherwise acquired ownership.

10. Date incorporated.

Only required from incorporated businesses.

11. Dates of corporation amendments.

Only required from incorporated businesses. Include all amendments.

12. Number of employees.

Include owners and officers if they also function as employees and are involved in day-to-day company operations. Do not include absentee owners, silent partners, or owners who are investors only.

Do not include employees contracted out to other employers, such as agency placements.

13. Information on owners, directors, officers, and senior management.

List the name, address, position in firm, dates of employed and whether the person is minority or a woman for each owner, corporate director officer and senior management.

14. Affiliations

List all owners, directors, officers, and senior management persons (see response to question 13) who are affiliated, in any way, with other companies. Describe their affiliation and the number of hours, weekly, they devote to the other firm.

15a & 15b. Stock/Shareholder information

Applies to corporations and LLCs that issue stock. Provide all requested information. Explain fully.

16. Loans and gifts to firm

List full names of individuals or firms from which the business has obtained loans or received gifts. List the dates and amounts.

17. Bonding firms, banks, letters of credit

List the name of each applicable bonding and/or financial institution.

18a-18d. Functions within the business

Provide the full name and title of the individual(s) performing each function. If a function is shared by two or more people, indicate the approximate percentage of the function that each person performs.

19. Ownership by another company

Provide complete details. Attach additional page(s) to the completed application form, if needed.

22. Largest contracts or sales

List the three largest contracts or sales performed by the company. Provide requested information. If company is just starting up, write "none."

23. Major equipment

List all major equipment owned/leased for use in conducting the firm's business.

24. Agreements

Explain any agreements relating to the firm's ownership and/or operation, in detail, on a separate sheet of paper.

25. Business plan

Attach a copy of the firm's business plan, if one has been prepared.

Companies in business for less than one year must attach a 2-year business plan that has been reviewed by a Small Business Development Center (SBDC). For a list of SBDCs, visit their website at www.pasbdc.org.

26. Other MBE/WBE certifications

List **all** MBE/WBE certifications your firm has received from other agencies. Provide the name of each certifying agency and verification, such as a copy of your certificate.

27. Certification denials

List **all** agencies that have denied certification to this company or to any other company owned, in full or part, by any of this company's owners and/or officers. Explain each denial.

28. Debarment

Indicate if this company, or any other company owned in full or part by any of this company's owners and/or officers is currently debarred from doing business with the Commonwealth.

[Bureau Use Only: Application No. _____]

CERTIFICATION APPLICATION

Department of General Services, Bureau of Minority and Women Business Opportunities
North Office Building ▫ 401 North Street, Room 611 ▫ Harrisburg, PA 17120-0500

PLEASE TYPE OR PRINT. ANSWER ALL QUESTIONS.

1a. Veteran Owned Business Enterprise (VOBE) or Service disabled Veteran Owned Business Enterprise (SDV)

If applying for certification as a Veteran Owned Business Enterprise (VOBE) or Service Disabled Veteran Owned Business Enterprise (SDV), please check here: VOBE ☐ SDV ☐

1b. If a veteran, please attach your completed DD Form 214. If Service Disabled Veteran, provide governmental documentation.

2a. Information on Applicant Business (*one business per application only*)
Legal name of firm: _____

Headquarters address (cannot be a P.O. Box): _____

City:_____ County:_____ State:_____ Zip code:_____

Phone:_____-_____-_____ FAX:_____-_____-_____ Owner's E-mail address:_____

Federal Identification # (EIN): _____ Website address:_____

PA State Vendor Registration #: _____ (*Registration is mandatory. To register as a vendor and to obtain a vendor registration number, go to www.pasupplierportal.state.pa.us. For questions concerning the vendor registration process, call 1-877-435-7363 or 717-346-2676. Please note that the vendor registration process will require the company to submit a completed W-9 form.*)

2b. Information on Primary Owner of Business
Name: _____ Title: _____

Home address: _____

_____ Zip code: _____ Phone: _____-_____-_____

3. Firm is applying as (*see Definitions*):

Minority Business Enterprise	Woman Business Enterprise	Veteran Owned Business Enterprise
___African American	___African American	___African American
___Hispanic American	___Hispanic American	___Hispanic American
___Native American	___Native American	___Native American
___Asian American	___Asian American	___Asian American
___Pacific Islander	___White American	___White American
	___Pacific Islander	___Pacific Islander

4. Firm's attorney or law firm (*if any*)**:**
Name: _____

Address: _____

_____ Zip code: _____

Phone:_____-_____-_____ FAX:_____-_____-_____ E-mail:_____

5. Describe, in detail, what product(s) and/or services your firm provides. *Attach additional pages and/or the company's catalog or inventory list, if needed.*

_____

6. **Legal structure of the firm** (*check one*)**:**

___ Sole proprietorship ___ LLC
___ Partnership ___ S Corporation
___ Corporation

7. **Type of business activity** (*suppliers must provide manufacturers' resale agreements*):

___ Building trade ___ Manufacturer
___ Consultant ___ Supplier – stocking (attach summary of items stocked)
___ Generalized service ___ Supplier - nonstocking
___ Licensed professional services ___ Other (explain): _____

8. **Date firm was established: ___/____/_____**

Date firm began doing business (date of first contract or sale): ___/____/_____

Name of primary owner when firm was established_____

9. **Date current primary owner acquired controlling interest in firm: ___/____/_____**

10. **Date incorporated,** if firm is a corporation**: ___/____/_____**

11. **Dates of corporation amendments,** if firm is a corporation**: ___/____/_____; ___/____/_____; ___/____/_____**

12. **Number of employees** (*Important*: *read Instructions*)**:**

Full time: _____
Part time: _____
Seasonal (approximate): _____

13. **Provide the following information for: 1) all business owners, 2) corporate directors (if incorporated), 3) officers, and 4) senior management.** If more space is needed, attach additional pages.

Name	Address	Position in Firm	Minority, Woman, or Veteran?	Dates Employed

14. **If any of the persons listed in question 13, above, are affiliated with other firms, provide these details:**

Name	Name of Other Firm	Type of Affiliation (employee, owner, etc.)	# Hours Devoted to Other Firm

15a. Has the firm issued any shares of stock? If yes, please complete the following:

The company has issued ____ shares of stock, of which _____ shares are common stock and _____ are preferred stock.

15b. Shareholder information, if incorporated. Include all shareholders. Attach additional pages if needed.

Name	Date of Ownership	Minority, Woman, or Veteran?	Position in Firm	Class of Stock	# Shares Held (currently)	Value of Stock (currently)

16. Loans and gifts to firm. Attach additional sheets, if needed.

Date of Loan or Gift	Name of Lender/Giftor	Amount Loaned or Given	Balance Due (if a loan)	Name of Executor (if a loan)

17. Identify the firm's current bonding company, bank, and all letters of credit:

Bonding company: _____
Bank: _____
Letters of credit: _____

18a. List name and title of person(s) who determines what jobs the company will undertake? If more than one, indicate what % each person handles.

_____

_____

18b. List name and title of person(s) responsible for on-site project supervision. If more than one, indicate what % each person handles.

_____

_____

_____

18c. List name and title of person(s) who negotiates and signs for surety bonds, payroll, and insurance? If more than one, indicate what % each person handles.

Bonds: _____

Payroll: _____

Insurance: _____

18d. List names and titles of persons who perform the following functions. If more than one, indicate what % each person handles.

Estimating: _____

Marketing & sales: _____

Hiring/firing: _____

Purchase of major items: _____

19. If the firm is owned in full or part by another company, provide the name of that company, the percentage of ownership, its headquarters address, a list of its officers, and a list of other companies it owns.

_____

_____

_____

_____

20. Have the owners ever been convicted of a crime? ____No; ____Yes.

If yes, are they currently incarcerated? ____No; ____Yes.

21. Are there any legal documents in which the owners have transferred their power to someone else (e.g. power of attorney, trusts, etc.)? ____No; ____Yes.

If yes, please provide a copy of these signed agreements.

22. List the three largest contracts or sales completed by the firm during the last three years. List each customer's name and company or organization, the dollar amount of each contract or sale, and the date completed. If any are subcontracts, provide the name of the firm to which you subcontracted.

1)_____

2)_____

3)_____

23. Does the firm own any <u>major</u> equipment (check one)**?** ____No; ____Yes

If yes, list major equipment owned by the firm and the quantity. It is not necessary to list standard office equipment. Attach additional sheets, if necessary.

_____

_____

24. Are there any written, oral, or implied agreements between persons associated in any manner with the firm concerning its ownership and/or operation (check one)**?** ____No; ____Yes

If yes, provide copies or written details of such agreements.

25. Does firm have a 2-year business plan (check one)**?** ____No; ____Yes.

If yes, attach a copy to application. (*See Instructions*.)

26. Does this firm currently hold MBE, WBE, or VOBE certification from any certifying entity? ____No; ____Yes

If yes, provide the name(s) of the certifying organization(s), below, and attach letters or other documents verifying such certification.

_____

_____

27. Has this firm or other firm(s) owned by any of its current owners or officers ever been denied certification by the Bureau or any other certifying entity (check one)? ____No; ____Yes

If yes, provide the name of the certifying organization and the reason(s) given for denial, below. Attach copies of any relevant documents (letters, appeal documents, etc.).

_____

_____

28. Debarment

Is this company, or any other company owned in full or part by any of this company's owners and/or officers, currently debarred from doing business with the Commonwealth. ____No; ____Yes.

IMPORTANT INFORMATION

Please read carefully

The next page of the application is an affidavit attesting to the application's accuracy. This affidavit must be signed by the primary owner(s) of the applicant company. It must also be notarized. Without this signed and notarized page, the application cannot be processed.

Following the affidavit is a list of documents that must be provided with your application. Please read the instructions at the top of the chart.

Some documents on the list may not be available or may not apply to your company. If this occurs, please explain. We suggest inserting a sheet of paper in the application packet, at the place where the document would normally appear. Use the paper to explain why the requested document has not been provided.

The documents provided will not be returned to you. Do not send originals of important personal or business documents.

The undersigned acknowledges that all submitted documents become the property of the Commonwealth of Pennsylvania.

Further, the undersigned does hereby swear and affirm that he/she is a legal citizen of the United States and that the foregoing statements are true, accurate and include all pertinent information necessary to identify and explain the operations of [name of firm]
_____.

Further, the undersigned does covenant and agree to provide the Pennsylvania Department of General Services information regarding actual work performed on Commonwealth of Pennsylvania contracts, the payment thereof, and any proposed changes in any of the arrangements hereinabove stated.

The undersigned shall permit an audit, which may include interview of principals, employees, and officers, and the examination of books, records and files of [name of firm] _____ by authorized representatives of the Pennsylvania Department of General Services AT ANY TIME. Further, the undersigned hereby certifies that their tax records may be released by the Department of Revenue.

Any distortion, false statement, or nondisclosure of information will be deemed by the Department to be a material misrepresentation. A misrepresentation may be punishable under Section 4904 of Title 18 P.S.C.A., which specifically provides that a person commits a misdemeanor of the third degree if he makes a written false statement, which he does not believe to be true, on or pursuant to a form bearing notice authorized to the effect that false statements made therein are punishable.

In addition, Pennsylvania Act 230, Section 1, Title 18 provides that it is a third degree felony punishable by up to and not more than seven years in jail, and including a fine of not more than $15,000 if, in the course of business, he/she fraudulently obtains or retains certification, willfully makes a false statement, willfully obstructs or impedes any agency official or employee during an investigation, or fraudulently obtains public monies.

_____
SIGNATURE OF AFFIANT DATE

_____
PRINTED NAME

_____
TITLE

_____
NOTARY PUBLIC

Sworn and subscribed before me this_____
day of _____

My Commission Expires: ____

DOCUMENTS TO ATTACH TO YOUR APPLICATION

Important Information – Read carefully

Documentation must be submitted with your application. Find the column for your type of business**.** "YES" indicates that a document is required. A blank means the document is not required. An asterisk (*) indicates that the document is required **if** the business has issued stock.

Some required documents on the list may not be available or may not apply to your company. If this occurs, please explain. We suggest inserting a sheet of paper in the application packet, at the place where the document would appear. Use the paper to give a brief explanation of why the requested document has not been provided.

The documents provided will not be returned. Do not send originals of important personal or business documents.

DOCUMENTS TO ATTACH TO YOUR APPLICATION	SOLE PROP.	PART-NERSHIP	CORP./ S CORP.	LLC
Vendor Registration Number. Please note that this is mandatory for certification. To register for this number, go to www.pasupplierportal.state.pa.us. Also, note that you will be required to submit W-9 forms as part of the vendor registration process.	YES	YES	YES	YES
Last two years of the company's Federal tax returns (returns must show officers' salaries and dividends (if a corporation), salaries, and distribution of profits to owners and senior management).	YES	YES	YES	YES
Copy of the company's Federal tax form 941filed for the two most recent quarters.	YES	YES	YES	YES
Last two years' W2 and/or 1099 forms for all owners, directors, officers, and senior management.	YES	YES	YES	YES
Resumes of all owners, directors, officers, and senior management. Must be **up-to-date, chronological and detailed.** Should reflect experience and/or training in the type(s) of business being conducted.	YES	YES	YES	YES
Copies of any relevant licenses, certificates of training, and degrees held by the company or its owners/employees.	YES	YES	YES	YES
Copy of the Articles of Incorporation.			YES	
Copy of stock certificates and stock transfer ledger.			YES	*
Copy of Corporation By-Laws.			YES	
Copy of the record/minutes of first corporate organization meeting.			YES	
Copy of minutes from the stockholder meeting at which the current board of directors was elected.			YES	
Copy of Certificate of Organization.				YES
Copy of Operating Agreement.				YES
Copies of Partnership Agreement, buy-out rights, and profit-sharing		YES		
Copies of all rental or lease agreements and/or management service agreements (e.g., office space, equipment, car rental, etc.). Copy of deed or lease, if operating business out of home.	YES	YES	YES	YES

IMPORTANT: LIST CONTINUES ON NEXT PAGE.

DOCUMENTS TO ATTACH TO YOUR APPLICATION
Part 2

	SOLE PROP.	PART-NERSHIP	CORP./ S CORP.	LLC
Copies of any signed financial documents relating to loans for the business.	YES	YES	YES	YES
Copy of the initial form(s) signed when the company's bank accounts were opened, showing who is authorized to write checks or transact other banking business.	YES	YES	YES	YES
Explanation and proof of how primary owner(s) financed the establishment or purchase of the business (i.e., how it was capitalized). If ownership was obtained by other means (inheritance, gift, etc.) explain and provide proof.	YES	YES	YES	YES
Copies of three recent contracts or client invoices (invoices **given** to clients). If the business is a supplier, provide manufacturer's agreements or invoices for products sold.	YES	YES	YES	YES
Copy of MBE/WBE certification from home state, if company headquarters are not in Pennsylvania (must be a state level certification, if available).	YES	YES	YES	YES
Copy of one of the following proofs of citizenship, whichever applies: certificate of US citizenship, certificate of naturalization, birth certificate, passport, or tribal card.	YES	YES	YES	YES
Copy of two-year business plan**. IMPORTANT:** Companies that have been conducting business (i.e. actually engaging in contracts or sales) for less than one year **must** provide a two-year business plan that has been reviewed by a Small Business Development Center (SBDC). A letter from the SBDC, attesting to the review, must be provided. To locate a Pennsylvania SBDC go to www.pasbdc.org.	YES	YES	YES	YES
Companies conducting business for more than one year are asked to submit their business plan if they have one. Otherwise, a business plan is not required.	YES	YES	YES	YES
Copy of company's Fictitious Name Registry. (To register a fictitious name, go to www.dos.state.pa.us/corps.)	YES			
The following documents should be included if they contain stipulations that are not contained in the documents listed above and on the previous page: Stock options — Restrictions on disposal of stock Ownership options — Loan agreements Stockholder agreements — Information on value of shares Buy-out rights — Ownership of voting securities Stockholder voting rights — Control of trust	YES*	YES*	YES*	YES*

* If applicable