

# Minority Business Enterprise and Women-Owned Business Enterprise Certification Program

(Act 1456 of 2003, as amended)

## Rules and Regulations

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### I. Introduction

The origins of the Minority Business Enterprise (MBE) and Women-Owned Business Enterprise (WBE) Certification Program date back to the creation of the Division of Minority Business Enterprise (Act 544 of 1977) and the passage of the "Minority Business Economic Development Act" (Act 698 of 1991) which established a goal for state agencies to annually procure ten percent (10%) of goods and services from minority businesses. Administration of the Minority Business Economic Development Act was transferred from the Department of Commerce to the Department of Economic Development, now the Arkansas Economic Development Commission (AEDC), in 1979 (Act 1060 of 1979).

Act 1456 of 2003 required the AEDC, through the Division of Minority Business Enterprise, to develop a certification process for minority business enterprises seeking state procurement opportunities. Currently, the Division of Minority Business Enterprise, renamed the Division of Minority and Women-Owned Business Enterprise (Division) by Act 1080 of 2017, and the Office of State Procurement of the Department of Finance and Administration work closely to implement program requirements.

Subsequent amendments to the Minority Business Economic Development Act in 2003, 2007, 2009, 2011, and 2017 have changed the name of the act to the Minority and Women-Owned Business Economic Development Act; expanded and added definitions; enhanced reporting requirements; renamed and expanded the duties of the Division of Minority Business Enterprise and the Minority Business Advisory Council; enhanced the responsibilities of the Office of State Procurement of the Department of Finance and Administration; modified procurement target percentages; and expanded the program to include additional minority groups, service-disabled veterans, and women-owned businesses.

Certification by the Minority Business Enterprise and Women-Owned Business Enterprise Certification Program, although not a prerequisite for contracting with the State of Arkansas for goods and services, enhances the ability of businesses to better understand the state procurement and contracting processes, be aware of state

contracting opportunities, and gain exposure through publication of company information in the Division's online directory of minority business enterprises and women-owned business enterprises. This, consequently, helps minority-owned and women-owned businesses compete for state contracts and strengthens state agencies' abilities to meet procurement spending targets which are:

- Ten percent (10%) for minority business enterprises with two percent (2%) allocated for service-disabled veteran-owned minority business enterprises and eight percent (8%) for all other minority business enterprises; and
- Five percent (5%) for women-owned business enterprises.

### Contact Information

For more information, please contact:

Arkansas Economic Development Commission

Division of Minority and Women-Owned Business Enterprise

900 West Capitol Avenue, Suite 400

Little Rock, AR 72201

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## 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. Rulemaking Authority

The AEDC has authority, at § 15-4-314, to promulgate rules necessary to create a minority business enterprise and women-owned business enterprise certification process.

## III. 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. A. "Minority" means a lawful permanent resident of the State of Arkansas who is:

(i) an African American;

- (ii) American Indian;
- (iii) Asian American; or
- (iv) Hispanic American;
- (v) Pacific Islander American; or
- (vi) ~~a Service-disabled~~ A service-disabled veteran as designated by the United States Department of Veteran Affairs;

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.~~

B. “Minority and Women-Owned Business Advisory Council” means the appointed council of advisors to the Division of Minority and Women-Owned Business Enterprise whose duties and responsibilities are delineated under § 15-4-307;

C. “Minority business enterprise” means a business that is at least fifty-one percent (51%) owned by one (1) or more minority persons;

D. “Women-owned business enterprise” means a business that is at least fifty-one percent (51%) owned by one (1) or more women who are lawful permanent residents of this state.

### **III. IV. 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 lawful permanent resident or residents of the state of Arkansas and its annual revenue must not exceed \$10,000,000.~~

To be eligible for certification, applicants must:

- A. Meet the definition of:
  - (i) Minority business enterprise; or
  - (ii) Women-owned business enterprise.

- B. Provide proof of legal organization as a for-profit business entity in good standing with the appropriate governmental agency;
- C. Verify minority or women majority ownership, operation, and management of the business, as applicable, based upon the type of certification requested;
- D. Submit a completed minority business enterprise/women-owned business enterprise application with all required attachments demonstrating the firm's capacity to conduct business with the State of Arkansas (see Appendix); and
- E. Demonstrate that the business's annual revenues are less than \$10,000,000.

Eligible minority and women-owned firms, as defined herein, enterprises that are actively certified with the any of the following organizations may qualify for a streamlined application by submitting the completed application and proof of certification from the qualifying organization:

- Arkansas-Mississippi Southern Region Minority Supplier Development Council (AMMSDC), (MBE);
- the Small Business Administration (SBA) 8(a) program Business Development Program; or
- the Arkansas Highway and Transportation Department (AHTD) Disadvantaged Business Enterprise (DBE) program of the Arkansas Department of Transportation (DBE); are also eligible to apply for MBE certification from the State of Arkansas.
- Women's Business Council-Southwest (WBE); and
- United States Department of Veterans Affairs (SDVOSB).

#### **IV.V. Certification Benefits**

Although certification is not a requirement for contracting for goods and services with the State of Arkansas, Certified MBEs certified minority business enterprises (CMBE) and certified women-owned business enterprises (CWBE) will enjoy several benefits, which include:

- Receive notification Notification of opportunities to do conduct business with state agencies;
- Receive notification Notification of training events, workshops, networking events, and educational opportunities;
- Designation as a certified MBE CMBE or CWBE in the Small and Minority Business Division's Division's online directory;
- Receive Issuance of an official CMBE or CWBE certificate; and
- Simplified re-certification A streamlined certification process.

The State Procurement Director, state agency procurement agents, college and university procurement officials, MBE, WBE, Constitutional offices constitutional officers, and minority business officers will be notified of firms which have attained minority businesses which are CMBE or CWBE certifications.

#### **V. VI. Application Certification Process**

- A. 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. To request certification, eligible applicants shall, utilizing forms prescribed by the Division, submit a completed, signed application with all supporting documentation listed in the Appendix.
- B. The Commission Division shall review the application for completeness to determine that:
- (i) All required eligibility, fiscal, managerial, and organizational documentation and attachments have been submitted;
  - (ii) The applicant meets the definition of:
    - a. Minority business enterprise; or
    - b. Women-owned business enterprise;
  - (iii) The applicant has provided proof of legal organization as a for-profit business entity in good standing with the appropriate governmental agency;
  - (iv) There is sufficient documentation to verify minority or woman majority ownership, operation, and management of the business, as applicable, based upon the type of certification requested;
  - (v) check the applicant's All customer business references have been verified.
- C. The Division may:
- (i) and may schedule Schedule a pre-certification interview/site visit with the applicant; and
  - (ii) Examine vendor Vendor agreements, invoices, partnership agreements, and articles of incorporation that relate to business with the State of Arkansas are subject to examination.

The Division shall also include as an integral component of the ongoing certification program:

- A. An education program to assist minority business enterprises and women-owned business enterprises in achieving certification; and
- B. Outreach to ensure the broadest possible participation of minority business enterprises and women-owned business enterprises and persons proposing new minority business enterprises or women-owned business enterprises.

Eligible minority and women-owned firms, as defined herein, enterprises that are actively certified with the any of the following organizations may qualify for a

streamlined application by submitting the completed application and proof of certification from the qualifying organization:

- Arkansas-Mississippi Southern Region Minority Supplier Development Council (AMMSDC), (MBE);
- the Small Business Administration (SBA) 8(a) program Business Development Program; or
- the Arkansas Highway and Transportation Department (AHTD) Disadvantaged Business Enterprise (DBE) program of the Arkansas Department of Transportation (DBE); are also eligible to apply for MBE certification from the State of Arkansas;
- Women's Business Council-Southwest (WBE); and
- United States Department of Veterans Affairs (SDVOSB).

#### **VI. VII. MBE CMBE and CWBE Operations**

~~Certified Minority Business Enterprises~~ CMBE and CWBE are subject to periodic reviews by the Commission Division. 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 Notice of Change Affidavit. All business transactions, including billing and the remittance of such, must be conducted under the name appearing on the MBE or WBE certificate.

#### **VII. VIII. Annual Re-Certification Recertification**

~~Certified MBEs~~ CMBEs and CWBEs are required to recertify every two (2) years. To initiate recertification, CMBEs and CWBEs shall send a Re-Certification Affidavit to the Division of Minority Business Enterprise Recertification Affidavit to the Division thirty (30) days prior to their current expiration date stating their desire to maintain certification.

The Affidavit shall state that the ~~firm is~~ business enterprise continues to be fifty-one percent (51%) 51% minority-owned, -operated and -managed, or fifty-one percent (51%) women-owned, -operated, and -managed, and must be signed by the ~~firm's~~ owner, 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.~~

#### **VIII. IX. Revocation**

The Director of the Division of Minority and Women-Owned Business Enterprise (Director) has the authority to suspend, and/or, ~~under just cause,~~ revoke, or both, the

certification of any business which fails to comply with the ~~intent~~ rules of this program. Any business with a revoked certification will be ineligible to ~~re-apply~~ reapply to the program for a period of ~~one year~~ two (2) years.

Prior to revocation of an MBE or WBE certification under ~~this regulation~~ these rules, the MBE or WBE shall be afforded an opportunity to discuss with the Director the issues which have given rise to the revocation.

## **~~IX.~~ 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.~~

## **X. Appeals**

A. Any applicant who is denied ~~their~~ its request for certification or recertification because they were unable to prove ~~their~~ its minority-owned or women-owned status may appeal the decision to the Minority and Women-Owned Business Advisory Council (Council). A written notice of appeal must be received ~~by the Commission~~ 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~~ Council. A written notice of appeal must be received ~~by the Commission~~ within thirty (30) days after the date on the notice of the revocation. The ~~Minority Business Advisory Council~~ Council shall meet to hear the appeal within forty-five (45) days of receipt of the written notice.

## Appendix

### List of Documents

1. Completed, signed MBE/WBE application form
2. Copy Proof of certification from qualifying organization\*
3. Copy of the Articles of Incorporation, or Fictitious Name Certificate Organization Information:
  - a. Sole proprietorships (assumed name documents)
  - b. Partnerships (limited partnership documents; partnership, buy-out, and/or profit sharing agreements; partnership or operating agreement required for businesses with two (2) or more owners, evidencing division of shares and profit distribution)
  - c. Corporations (Provide filings in good standing; bylaws; board of directors and/or shareholdings documentation)
4. Copy of bank signature authorization card, form or letter signed by a bank official at your financial institution identifying the person(s) authorized to sign checks on the business business's account (signatory authority)
5. Federal Tax Identification Number and Dun & Bradstreet Number (DUNS)
6. Proof of Arkansas residency (State-issued driver's license or identification card)
7. Evidence of United States citizenship or permanent legal resident alien status (United States passport, United States birth certificate, naturalization papers, permanent legal residence alien card ("green card"), or tribal card)
8. ~~Copy of Birth Certificate/Passport/Green Card/Tribal Card~~
8. Copy of resume(s) of owner(s), board of directors, and other senior corporate governance/management
9. Company overview
10. Proof of state and federal business income tax filing returns as filed with the Internal Revenue Service (IRS federal transcript) and Arkansas Department of Finance and Administration for the previous 3 two (2) years, business or personal (Minimum of one (1) year tax filing required for businesses operations)



11. Copy of insurance\*\*
12. Bonding information\*\*
13. Copy of each professional license\*\*
- ~~14. Partnership or Operating Agreement for businesses with 2 or more owners, evidencing division of shares and profit distribution~~
14. Veterans Administration adjudication letter, if applicant is a service-disabled veteran
15. Financial statements\*\*
16. Service agreements\*\*
17. Proof of capital and/or equity\*\*
18. Business customer references

\* Eligible minority- or women-owned businesses certified by a qualifying organization identified in Section ~~V~~ IV of these rules need only submit the MBE/WBE application form ~~along~~ with and proof of certification from the qualifying organization.

\*\*If required as a normal function of the business

State of Arkansas *As Engrossed: H3/14/17 H3/23/17 S3/29/17*

91st General Assembly

Regular Session, 2017

## A Bill

HOUSE BILL 2218

By: Representatives M. Gray, V. Flowers, M. Hodges, *Vaught, Davis*

By: Senators Irvin, D. Wallace, Elliott

### For An Act To Be Entitled

AN ACT TO AMEND THE MINORITY BUSINESS ECONOMIC  
DEVELOPMENT ACT; TO REPEAL CERTAIN CONTRACTING GOALS;  
AND FOR OTHER PURPOSES.

### Subtitle

TO AMEND THE MINORITY BUSINESS ECONOMIC  
DEVELOPMENT ACT; AND TO REPEAL CERTAIN  
CONTRACTING GOALS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

*SECTION 1. Arkansas Code Title 15, Chapter 4, Subchapter 3, is amended  
to read as follows:*

*Subchapter 3 – Minority and Women-Owned Business Economic Development Act*

*15-4-301. Title.*

*This subchapter shall be known and may be cited as the “Minority and  
Women-Owned Business Economic Development Act”.*

*15-4-302. Purpose – Goals – Notice.*

*(a) The General Assembly finds that it is the policy of the State of  
Arkansas to support equal opportunity as well as economic development in  
every sector.*

*(b) The General Assembly recognizes that it is the purpose of this  
subchapter to support to the fullest all possible participation of firms  
owned and controlled by minority persons and women in state-funded and state-*



1 directed public construction programs and in the purchase of goods and  
2 services for the state.

3 (c) All state agencies shall attempt to ensure that ~~ten percent (10%)~~  
4 the following percentages of the total amount expended in state-funded and  
5 state-directed public construction programs and in the purchase of goods and  
6 services for the state each fiscal year ~~is~~ are paid to minority business  
7 enterprises and women-owned business enterprises:

8 (1)(A) For minority business enterprises, ten percent (10%).

9 (B) The ten-percent goal under subdivision (c)(1)(A) of  
10 this section shall be allocated as follows:

11 (i) Two percent (2%) for service-disabled veteran-  
12 owned minority business enterprises; and

13 (ii) Eight percent (8%) for all other minority  
14 business enterprises; and

15 (2) For women-owned business enterprises, five percent (5%).

16 (d) To facilitate notification of potential respondents to procurement  
17 solicitations, a state agency shall publish all state contract solicitations  
18 on the website for the Office of State Procurement of the Department of  
19 Finance and Administration.

20  
21 15-4-303. Definitions.

22 As used in this subchapter:

23 (1)(A) "Exempt" means goods and services classified as exempt  
24 for the purpose of administering this subchapter.

25 (B) The classification shall be determined by the Office  
26 of State Procurement of the Department of Finance and Administration and the  
27 Division of Minority and Women-owned Business Enterprise of the Arkansas  
28 Economic Development Commission and submitted to the Arkansas Economic  
29 Development Council for its review and consideration for the purposes of this  
30 subchapter;

31 (2) "Minority" means a lawful permanent resident of this state  
32 who is:

33 (A) African American;

34 (B) Hispanic American;

35 (C) American Indian;

36 (D) Asian American; or

1 (E) Pacific Islander American; or  
2 (F) A service-disabled veteran as designated by the United  
3 States Department of Veterans Affairs;

4 (3) "Minority business enterprise" means a business that is at  
5 least fifty-one percent (51%) owned by one (1) or more minority persons as  
6 defined in this section;

7 (4) "Minority and women-owned business officer" means the  
8 individual within each state agency with the responsibility for carrying out  
9 the intended purposes of this subchapter;

10 (5)(A) "Nonexempt" means goods and services classified as  
11 nonexempt for the purpose of administering this subchapter.

12 (B) The classification shall be determined by the office  
13 and the division and submitted to the council for its review and  
14 consideration for the purposes of this subchapter;

15 (6) "Procurement" means buying, purchasing, renting, leasing, or  
16 otherwise acquiring any goods or services;

17 (7) "State agency" means a department, an office, a board, a  
18 commission, or an institution of this state, including a state-supported  
19 institution of higher education; and

20 (8) "State contract" means a state agreement, regardless of what  
21 it may be called, for the purchase of commodities and services and for the  
22 disposal of surplus commodities and services not otherwise exempt; and

23 (9) "Women-owned business enterprise" means a business that is  
24 at least fifty-one percent (51%) owned by one (1) or more women who are  
25 lawful permanent residents of this state.

26

27 15-4-304. Creation.

28 The Division of Minority and Women-owned Business Enterprise of the  
29 Arkansas Economic Development Commission:

30 (1) Is established and confirmed within the Arkansas Economic  
31 Development Commission ~~under the jurisdiction of the Arkansas Economic~~  
32 ~~Development Council;~~

33 (2) Shall be operated as a division within the commission; and

34 (3) Shall perform the functions and duties as provided in this  
35 subchapter.

36

1           15-4-305. Administrator.

2           The head of the Division of Minority and Women-owned Business  
3   Enterprise of the Arkansas Economic Development Commission is the  
4   Administrator of the Division of Minority and Women-owned Business Enterprise  
5   of the Arkansas Economic Development Commission and shall be appointed by the  
6   Governor.

7

8           15-4-306. Duties.

9           The Division of Minority and Women-owned Business Enterprise of the  
10   Arkansas Economic Development Commission shall:

11           (1) Provide technical, managerial, and counseling services and  
12   assistance to minority business enterprises and women-owned business  
13   enterprises;

14           (2) With the participation of other state departments and state  
15   agencies as appropriate:

16           (A) Develop comprehensive plans and specific program goals  
17   for a minority business enterprise and women-owned business enterprise  
18   program;

19           (B) Establish regular performance monitoring and reporting  
20   systems to assure that goals are being achieved; and

21           (C) Evaluate the impact of federal and state support in  
22   achieving the objectives established by the Arkansas Economic Development  
23   Commission;

24           (3) Implement state policy in support of minority business  
25   enterprise and development and women-owned business enterprise and  
26   development and coordinate the plans, programs, and operations of state  
27   government that affect or may contribute to the establishment, preservation,  
28   and strengthening of minority business enterprises and women-owned business  
29   enterprises;

30           (4) Coordinate, make application for, and administer federal  
31   funding grants from the United States Minority Business Development Agency ~~of~~  
32   ~~the United States Department of Commerce, the United States Small Business~~  
33   Administration, the United States Department of Veterans Affairs, and other  
34   federal agencies ~~where~~ when applicable;

35           (5) Promote the mobilization of activities and resources of  
36   state agencies and local governments, business and trade associations,

1 universities, foundations, professional organizations, and volunteer and  
2 other groups toward the growth of minority business enterprises and women-  
3 owned business enterprises, and facilitate the coordination of the efforts of  
4 these groups with those of other state departments and state agencies;

5 (6) Establish a center for the development, collection, and  
6 dissemination of information that will be helpful to persons and  
7 organizations throughout the state in undertaking or promoting the  
8 establishment and successful operation of minority business enterprises and  
9 women-owned business enterprises;

10 (7) Conduct coordinated reviews of all proposed state training  
11 and technical assistance activities in direct support of the minority  
12 business enterprise and women-owned business enterprise program to ensure  
13 consistency with program goals and to preclude duplication of effort of other  
14 state agencies with overlapping jurisdictions;

15 (8) Recommend appropriate legislative or executive actions to  
16 enhance minority business enterprise and women-owned business enterprise  
17 opportunities in this state;

18 (9) Assist minority business enterprises and women-owned  
19 business enterprises in obtaining governmental or commercial financing for  
20 business expansion, establishment of new businesses, or industrial  
21 development projects;

22 (10) Provide services to promote the organization of local  
23 development corporations for rural development and assist minority business  
24 enterprise and women-owned business enterprise persons in agrarian endeavors;

25 (11) Assist minority business enterprises and women-owned  
26 business enterprises to promote reciprocal foreign trade and investment;

27 (12) Assist minority and women-owned business persons in  
28 business contract procurement from governmental and private commercial  
29 sources; and

30 (13) Provide a program effort to ensure participation of  
31 veterans and women in Arkansas minority business enterprise activities and  
32 women-owned business enterprise activities.

33  
34 15-4-307. Minority and Women-owned Business Advisory Council.

35 (a) The Division of Minority and Women-owned Business Enterprise of  
36 the Arkansas Economic Development Commission shall be represented by a

1 statewide Minority and Women-owned Business Advisory Council and shall report  
2 to that council.

3 (b)(1) The council shall consist of ~~seven (7)~~ nine (9) members.

4 (2) The council shall:

5 (A) Monitor progress, make recommendations, and develop  
6 strategic plans for performance improvement; and

7 (B) Report to the Governor, the Speaker of the House of  
8 Representatives, and the President Pro Tempore of the Senate.

9 (c)(1) The Governor shall appoint three (3) members of the council  
10 with the advice and consent of the Senate.

11 (2) The President Pro Tempore of the Senate shall appoint two  
12 (2) members of the council.

13 (3) The Speaker of the House of Representatives shall appoint  
14 two (2) members of the council.

15 (4) The Executive Director of the Arkansas Economic Development  
16 Commission shall appoint two (2) members of the council.

17 ~~(4)(5)~~ Appointments shall reflect and be representative of the  
18 minority and women-owned business ~~community~~ communities, resource  
19 organizations, entrepreneurs, corporations, and other minority and women-  
20 owned business advocates.

21 (d) Except as otherwise provided by law, members of the council shall  
22 serve without compensation.

23 (e) The term of office of the council shall ~~be~~:

24 (1) Be at the pleasure of the appointing officer; and

25 (2) Not exceed five (5) years.

26 (f) There is established a formal relationship between the council and  
27 the Administrator of the Division of Minority and Women-owned Business  
28 Enterprise of the Arkansas Economic Development Commission.

29 (g)(1) ~~The administrator and the small-disadvantaged business officer~~  
30 ~~shall be the liaison to the council and shall be responsible for submitting~~  
31 ~~to the council any reports and documents under the provisions of this~~  
32 ~~section.~~

33 (2) Their duties in relation to this section shall be considered  
34 official duty in the conduct of state business.

35 (h) The council's duties and responsibilities shall be to:

36 (1) Review reports and interpret each state agency's achievement

1 of its goals under § 15-4-302(c);

2 (2) Advise the Governor when a state agency has not reached its  
3 goals under § 15-4-302(c);

4 (3) Make annual reports to the Governor, including without  
5 limitation:

6 (A) A summary of the state's performance in relation to  
7 the goals stated in § 15-4-302(c); and

8 (B) Any recommendations for modifications to the  
9 division's or other state agency's plans for improving statewide performance  
10 in relation to the goals stated in § 15-4-302(c);

11 (4) Recommend to the state agency, the division, and the Office  
12 of State Procurement of the Department of Finance and Administration  
13 corrective actions to strengthen minority and women-owned business  
14 opportunities in the state; and

15 (5) Conduct public hearings when necessary to obtain public  
16 input and support for the purpose of carrying out the provisions of this  
17 subchapter.

18 (i) Each state agency, through its minority and women-owned business  
19 officer, shall submit to the division, ~~the council~~, and the office the state  
20 agency's plan to reach its goals for the coming fiscal year and shall:

21 (1) Be submitted to the division by June 30 of each year;

22 (2) Contain the name of the state agency submitting the plan;

23 (3) Contain a policy statement signed by the state agency head  
24 expressing a commitment to ~~use~~ strengthen minority business enterprises and  
25 women-owned business enterprises in all aspects of contracting to the maximum  
26 extent feasible;

27 (4) Identify the name of the minority and women-owned business  
28 officer in the state agency who is responsible for developing and  
29 administering the compliance plan;

30 (5) Establish a timetable for the state agency to reach its  
31 goals under the plan and the manner in which the state agency intends to  
32 reach its goals; and

33 (6) Contain any other procedures the division deems necessary to  
34 comply with the goals and the compliance plan.

35  
36 15-4-308. Administration.



1       (a) *The Division of Minority and Women-owned Business Enterprise of*  
2 *the Arkansas Economic Development Commission and the Office of State*  
3 *Procurement of the Department of Finance and Administration shall serve as*  
4 *the principal coordinators of the initiative to ensure the successful*  
5 *implementation of this subchapter.*

6       (b) *The division and the office shall provide assistance to minority*  
7 *business enterprises and women-owned business enterprises seeking state*  
8 *contract opportunities with various state agencies.*

9       (c) *The division and the office shall maintain a directory of all*  
10 *minority and women-owned business officers for each state agency.*

11       (d) *The division and the office shall provide management and technical*  
12 *assistance to any state agency that experiences difficulty in complying with*  
13 *the provisions of this subchapter.*

14       (e) *The division and the office shall maintain a current directory of*  
15 *minority business enterprises and women-owned business enterprises and shall*  
16 *make the directory available to each state agency and minority and women-*  
17 *owned business officer.*

18       (f) *The division shall serve as a central clearinghouse for*  
19 *information on state contracts, including a record of all pending state*  
20 *contracts upon which minority business enterprises and women-owned business*  
21 *enterprises may participate.*

22  
23       15-4-309. *Exempt contracts.*

24       *Upon the approval of the Minority and Women-owned Business Advisory*  
25 *Council, the Division of Minority and Women-owned Business Enterprise of the*  
26 *Arkansas Economic Development Commission and the Office of State Procurement*  
27 *of the Department of Finance and Administration shall determine the*  
28 *classifications of state contracts to be exempted from the goals established*  
29 *by this subchapter whenever there exists an insufficient number of minority*  
30 *business enterprises or women-owned business enterprises to ensure adequate*  
31 *competition.*

32  
33       15-4-310. *Minority and women-owned business officer.*

34       (a) *Each state agency shall designate an individual as its minority*  
35 *and women-owned business officer.*

36       (b) *The minority and women-owned business officer shall be the person*

1 within the state agency with whom the Division of Minority and Women-owned  
2 Business Enterprise of the Arkansas Economic Development Commission and the  
3 Minority and Women-owned Business Advisory Council shall work in their  
4 efforts to accomplish the goals of this subchapter.

5 (c) Upon the appointment of the minority and women-owned business  
6 officer in each state agency, the state agency shall notify the division and  
7 the Office of State Procurement of the Department of Finance and  
8 Administration.

9

10 15-4-311. Annual minority and women-owned purchasing plan.

11 (a) Prior to June 30 each year, each state agency shall submit to the  
12 Division of Minority and Women-owned Business Enterprise of the Arkansas  
13 Economic Development Commission and the Office of State Procurement of the  
14 Department of Finance and Administration a minority and women-owned  
15 purchasing plan that shall outline the state agency's plan to reach its goals  
16 for the coming fiscal year.

17 (b) The minority and women-owned purchasing plan shall include without  
18 limitation:

19 (1) The name of the state agency;

20 (2) A policy statement signed by the state agency head  
21 expressing a commitment to use minority business enterprises and women-owned  
22 business enterprises in all aspects of contracting to the maximum extent  
23 feasible;

24 (3) The name of the minority and women-owned business officer in  
25 the state agency who is responsible for developing and administering the  
26 compliance purchasing plan;

27 (4) The time table for the state agency to reach its goals under  
28 the purchasing plan and the manner in which the state agency intends to reach  
29 its goals, including without limitation the manner in which the state agency  
30 intends to include minority business enterprises and women-owned business  
31 enterprises in reaching its goals; and

32 (5) Any other procedures the state agency deems necessary to  
33 comply with the goals and the compliance purchasing plan.

34 (c) The minority and women-owned business officer shall determine the  
35 category to which a purchase shall be assigned for purposes of the minority  
36 and women-owned purchasing plan required under this section.

1  
2 15-4-312. State agencies to submit reports.

3 ~~The Minority Business Advisory Council shall require each state agency~~  
4 ~~to produce within~~ Within fifteen (15) days of the close of each ~~three-month~~  
5 six-month period, each state agency shall submit a report to the Minority and  
6 Women-owned Business Advisory Council summing up total procurement for all  
7 state contracts, except exempt state contracts of the state agency, and the  
8 dollar value and the percentage of the state contracts of the state agency  
9 awarded to minority business enterprises and women-owned business  
10 enterprises.

11  
12 15-4-313. Accelerated payments.

13 To ensure that minority business enterprises and women-owned business  
14 enterprises are not financially hindered due to delays in payment by state  
15 agencies entering into state contracts with minority business enterprises and  
16 women-owned business enterprises under this subchapter, state agencies shall  
17 accelerate payment to minority vendors and women-owned vendors to preclude  
18 accounts receivable problems of minority business enterprises and women-owned  
19 business enterprises caused by the State of Arkansas.

20  
21 15-4-314. Minority business enterprises and women-owned business  
22 enterprises certification process.

23 (a) The Division of Minority and Women-owned Business Enterprise of  
24 the Arkansas Economic Development Commission shall promulgate rules to create  
25 a certification process for minority business enterprises and women-owned  
26 business enterprises.

27 (b) The certification process shall include without limitation:

28 (1) Criteria for certification that shall include without  
29 limitation:

30 (A) A determination that the business is structured as a  
31 minority business enterprise or a women-owned business enterprise;

32 (B) Verification of minority or woman ownership and  
33 control of the business; and

34 (C) Annual updates indicating continuing minority or woman  
35 ownership and control;

36 (2) A formal application process;

1           (3) An education program to assist minority business enterprises  
2 and women-owned business enterprises in achieving certification; and

3           (4) An outreach to ensure the broadest possible participation of  
4 minority business enterprises and women-owned business enterprises and  
5 persons proposing new minority business enterprises or women-owned business  
6 enterprises.

7           (c) The Office of State Procurement of the Department of Finance and  
8 Administration shall cooperate with the division to the fullest extent  
9 possible in sharing information concerning certification and registration of  
10 minority business enterprises and women-owned business enterprises carrying  
11 out the purposes of this section.

12

13           SECTION 2. Arkansas Code Title 15, Chapter 4, Subchapter 3, is amended  
14 to add an additional section to read as follows:

15           15-4-315. Small procurements.

16           To assist the state in ensuring that the percentages of the total  
17 amount expended in state-funded and state-directed public construction  
18 programs and procurement of commodities and services for the state each  
19 fiscal year under § 15-4-302 are paid to minority business enterprises and  
20 women-owned business enterprises under this subchapter, a procurement that  
21 does not exceed two (2) times the amount stated in § 19-11-204(13) may be  
22 procured without seeking competitive bids or competitive sealed bids if the  
23 procurement is with a certified minority business enterprise or certified  
24 women-owned business enterprise

25

26           SECTION 3. Arkansas Code § 19-11-106 is repealed.

27           ~~19-11-106. Contracting goals for service-disabled veterans —~~  
28 ~~Definitions.~~

29           ~~(a) As used in this section:~~

30           ~~(1) "Service-disabled veteran" means any individual who:~~

31           ~~(A) Is at least thirty percent (30%) disabled as a result~~  
32 ~~of military service and is designated as such by the United States Department~~  
33 ~~of Veterans Affairs; and~~

34           ~~(B) Has been a resident of the State of Arkansas for at~~  
35 ~~least two (2) years; and~~

36           ~~(2) "Business of a service-disabled veteran" means a business~~

1 ~~that:~~

2 ~~(A) Not less than fifty-one percent (51%) of which is~~  
3 ~~owned by one (1) or more service-disabled veterans;~~

4 ~~(B) The management and daily business operations of which~~  
5 ~~are controlled by one (1) or more service-disabled veterans; and~~

6 ~~(C) Has been certified as a business of a service-disabled~~  
7 ~~veteran by the Division of Minority Business Enterprise of the Arkansas~~  
8 ~~Economic Development Commission under the Minority Business Economic~~  
9 ~~Development Act, § 15-4-301 et seq.~~

10 ~~(b)(1) All state agencies shall attempt to ensure that five percent~~  
11 ~~(5%) of the total amount expended in state-funded and state-directed public~~  
12 ~~construction programs and in the purchase of goods and services for the state~~  
13 ~~each fiscal year is paid to businesses of service-disabled veterans.~~

14 ~~(2) This subsection shall not be construed as establishing a~~  
15 ~~preference in contracting with businesses of service-disabled veterans.~~

16  
17 /s/M. Gray

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20 **APPROVED: 04/07/2017**  
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