

MBE1 Certification Application Files

The Minority Business Enterprise Compliance Office (MBECO) is responsible for administering and implementing the state's policy of supporting the fullest possible participation of firms owned and controlled by minorities, as defined by RIGL 37-14.1—¹. Contractors bidding to offer products and services to state agencies must include the use of services and products available from businesses that are certified as Minority Business Enterprises (MBE). The office is responsible for accepting applications for certification of businesses as minority enterprises and promoting the development of certified Minority Business Enterprises (MBE) as well as Women-owned Business Enterprises (WBE), and Disadvantaged Business Enterprises (DBE) in Rhode Island. This program is limited to small businesses (as defined by the U.S. Small Business Administration size standards under 13 CFR 121) owned and controlled by one or more minorities, women, or disadvantaged individuals and which the Office has certified as a minority business enterprise under regulations issued by the RI Department of Administration. A minority small business concern is one that is at least fifty-one percent owned and controlled by one or more socially and economically disadvantaged individuals. In the case of a publicly owned business, at least one or more socially and economically disadvantaged individuals must own fifty-one percent of the stock. Also, one or more such individuals and women must control the management and daily business operations. The MBECO is responsible for reviewing applicant documentation and making recommendations to the Certification Review Committee. MBECO applications may be approved, withdrawn, dormant (incomplete/inactive), or denied. Finally, the MBECO also provides financial, legal, and personnel advice and assistance to MBEs throughout the life of contracts in which they participate.

This record series documents the certification application process for individual applicant companies. The content of each company file depends on the kind of company and the course of the application process. Records contain application forms along with supporting documentation, which includes personal financial statements, income tax returns, loan agreements, equipment leases, year-end balance sheets, licenses, bank authorizations, minutes of director and stockholder meetings, schedules of salaries, insurance agreements, and proof of facility ownership. Files may also contain proof of ethnicity and proof of citizenship documentation. As well, files include site visit reports to ensure MBE-certified companies remain in compliance with legal and regulatory requirements, construction-related

¹ Under current law, "minority" means a person who is a citizen or lawful permanent resident of the United States and who is:

- (1) Black (a person having origins in any of the black racial groups of Africa);
- (2) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
- (3) Portuguese (a person of Portuguese, Brazilian, or other Portuguese culture or origin, regardless of race);
- (4) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands);
- (5) American Indian and Alaskan Native (a person having origins in any of the original peoples of North America).

records and notices of hearing, as well as annual recertification application forms, and related correspondence. Files may also include records related to company appeals to the federal Department of Transportation of CRC denial decisions.

a) Annual personal and business tax returns

Retention: Retain five (5) years.

b) Personal and business financial statements

Retention: Retain three (3) years.

c) Construction-related reports

Retention: Retain three (3) years.

d) All other documentation

Retention: Retain five (5) years after last file activity.

MBE2 Primary Contractor Compliance Files

All state funded and state directed public construction programs and projects and in-state purchases of goods and services must include the engagement of MBEs, DBEs, or WBEs. This applies to any and all state purchasing, including, but not limited to, the procurement of goods, services, construction projects, or contracts funded in whole or in part by state funds, or funds which, in accordance with a federal grant or otherwise, the state expends or administers, or in which the state is a signatory to the construction contract. Primary contractors must prepare an MBE Compliance Plan and submit it to the Director or his designee for approval. By law, plans must make provision for sub-contracting a minimum of ten percent (10%) of the dollar value of the entire procurement or project to minority business enterprises. The Office is responsible for reviewing primary contractors' Minority Business Utilization Plans for the engagement of minority businesses. If the Director or his designee does not approve the plan the prime contractor has submitted, the prime contractor may present a revised plan. Prime contractor may need to submit copies of purchase orders, subcontracts, cancelled checks, and other records that may indicate the number, names, dollar value of MBE subcontracts, dates, and schedule time for performance of work by an MBE subcontractor.

Files in this series may include individual Contractor Minority Business Utilization Plans, revised plans, financial and contract documentation, and records related to hearings concerning primary contractor compliance with laws and regulations. Records may also include documentation related to contractor/vendor justification for non-compliance with 10% requirement.

Retention: Retain three (3) years after MBE contract terms fulfilled.

MBE3 Records of Certification Review Committee

The Certification Review Committee is an administrative adjudicatory body consisting of five members appointed by the Director of the Department of Administration. The Committee is responsible for the certification, recertification, and/or decertification of MBE/WBE/DBE applicant firms and or certified firms. The committee reviews MBECO application recommendations as they relate to company control, dependency, compensation, or the appearance that a firm may have deliberately structured itself in order to take advantage of the MBE and DBE programs. The committee also schedules hearings in those instances where a formal meeting is requested by an applicant or the Certification Review Committee and conducted pursuant to the Administrative Procedures Act. The MBECO may require and applicants may request a hearing before the Committee arrives at a final determination. Hearings conducted by the Committee concern the certification, recertification, or decertification of an applicant or certified firm.

The Committee also monitors primary contractor legal and regulatory compliance. In those instances where the Certification Review Committee has determined that a prime contractor has not met the requirements of MBE law and regulations, the contractor has a right to appeal the decision to the Committee. The Committee may approve or deny the applicant's appeal, or the case may be filed as inactive when an applicant has failed to appear. The records include minutes of meetings and related documentation. A record of the hearings is kept on "electronic recording equipment" (audiotape cassettes) as specifically required by regulation, as well as verbal transcripts in those cases where the applicant has appealed the Committee's decision to the federal DOT and the DOT has requested a record of the hearing.

Retention: Permanent.

MBE4 MBE Tracking System

The MBE office uses a searchable database to maintain control of its information and MBECO activity history about each applicant for minority status. The database includes company name and location information, ownership identity, the number of employees, and minority percentage of the total workforce, the minority status (Black, Latino, Asian, woman, the business type, and year established, as well as sales statistics. The application is capable of providing aggregated reports keying on any field in the form.

Retention: Permanent.

MBE5 Certificates of Records Destruction

Certification of Records Destruction forms (PRA 003) signed by the authorized agency official and submitted to, and signed by, the State Archivist/Public Records Administrator. Certificates authorize the disposal of records listed in this and other applicable records retention schedules. (RIGL § 38-1-10, § 38-3-6, and § 42-8.1-10)

Retention: Permanent.