

1230.1607 OTHERWISE DISADVANTAGED BUSINESSES.

A. An individual business that is not a targeted group business but is owned by a socially and economically disadvantaged person, as defined in part 1230.0150, subpart 24, may be included as a targeted group business if the division determines that inclusion is necessary to remedy discrimination against the owner based on race, gender, or disability in attempting to operate a business that would provide goods or services to public agencies. The business must demonstrate that it is encountering the effects of discrimination as evidenced by the owner lacking adequate external support necessary to operate a competitive business enterprise through a diminished ability to secure:

- (1) long-term or working capital financing;
- (2) equipment, raw material, or supplier trade credit;
- (3) bonding and insurance; or
- (4) a proportionate share of the market for its goods and services.

B. In addition, for certification under item A, the information in this item must be provided for the most recent fiscal year and the preceding four years, if the applicant has operated as a business for four years. The applicant must identify the fiscal-year reporting system used and list in whole dollar amounts:

- (1) assets:
 - (a) all cash, marketplace securities, and other near-cash items, excluding sinking funds;
 - (b) all accounts from trade, less allowance for doubtful accounts;
 - (c) anything constituting inventory for the business;
 - (d) any other current assets, not including prepaid items;
 - (e) the total of all current assets shown in units (a) to (d);
 - (f) all property, plant, leasehold improvements, and equipment, less accumulated depreciation or depletion;
 - (g) intangible assets, including goodwill, trademarks, patents, catalogs, brands, copyrights, formulas, franchises, and mailing lists, less accumulated amortization;
 - (h) prepaid items and any other noncurrent assets; and
 - (i) total of all items listed in units (a) to (h);
- (2) liabilities:
 - (a) all short-term note obligations, including bank and commercial paper excluding trade notes payable;

- (b) that portion of long-term obligations that is due within the next fiscal year;
 - (c) open accounts due to the trade;
 - (d) income taxes, including current portion of deferred taxes. Identify federal, state, and local income taxes in subtotals;
 - (e) all other current liabilities, including bank overdrafts and accrued expenses;
 - (f) total of all current liabilities listed in units (a) to (e);
 - (g) all senior debt, including bonds, debentures, bank debt, mortgages, deferred portions of long-term debt, and capital lease obligations;
 - (h) all deferred taxes. Identify federal, state, and local taxes in subtotals;
 - (i) any other noncurrent liabilities, including subordinated debt and liability reserves;
 - (j) difference between total liabilities and total assets, including minority interest;
- and
- (k) total liabilities and net worth: total of all items listed in units (a) to (j); and
- (3) income data:
- (a) gross sales less returns and discounts allowed, if any;
 - (b) net sales less cost of sales;
 - (c) all selling, general, and administrative expenses, including depreciation, excluding interest expense;
 - (d) gross profit less operating expenses;
 - (e) includes miscellaneous other income less expenses, such as interest expense, miscellaneous expenses not included in general and administrative expenses netted against recoveries, interest income, dividends received, and miscellaneous income; and
 - (f) operating profit minus all other expenses (net).

C. If the business seeking certification under item A is a contractor, the information in item B must be submitted in all categories except as modified as follows:

- (1) assets:
 - (a) accounts receivable, progress billings: amounts billed on current contracts excluding retention;
 - (b) accounts receivable, current retention: amounts held back by customers on current contracts as retention;

(c) inventory: costs attributable to equipment, small tools, supplies, and other deferred costs related to contracts in progress where a portion of the cost applies to work not yet performed;

(d) costs and estimated earnings in excess of billings: the difference between the total of costs and recognized estimated earnings to date and the total billings to date;

(e) total current: total of all current assets shown and as modified, changed, or added in units (a) to (d); and

(f) joint ventures and investments: the total of investments and equity in joint ventures;

(2) liabilities:

(a) accounts payable - trade: open accounts and note obligations due to the trade;

(b) accounts payable - retention: amounts held back as retention in payments to subcontractors on current contracts;

(c) billings in excess of costs and estimated earnings: the difference between the total billings to date and the total of costs and recognized estimated earnings to date;

(d) total current liabilities: total of current liabilities shown and as modified, changed, or added in units (a) to (c); and

(e) total liabilities and net worth: total of all items shown as modified, changed, or added in units (a) to (d); and

(3) income data, contract revenues: revenues recognized under percent of completion method, in place of net sales.

D. In separate schedules, all applicants applying under item B or C should show the amounts attributable to depreciation, depletion, amortization, interest income, interest expenses, officers' compensation, and miscellaneous income shown as passive or nonpassive income. A schedule of leased assets with a brief description of type and dollar value must be submitted. A brief outline describing shareholders equity must be submitted, when applicable, for the type of company organization.

In addition, supportive documentation must be submitted when seeking certification under various provisions as follows:

(1) item A, subitem (1), for certification as lacking adequate external support in obtaining long-term or working capital financing, any documentation showing denial of loans or offers of loans at terms and rates not currently normal for similar enterprises;

(2) item A, subitem (2), for certification as lacking external support in obtaining equipment, raw materials, or supplier trade credit, any documentation showing denial of credit or credit extended at terms, conditions, and rates in excess of the norm expected within similar enterprises; and

(3) item A, subitem (3), for certification as lacking adequate external support in obtaining bonding and insurance, any documentation showing inability to obtain bonding or insurance at rates and terms normally expected within the industry segment of the applicant.

In all cases, adequacy of documentation, accuracy of financial data, and development of argument and positions with regard to an applicant's lack of external support within any of the four categories of item A rests with the applicant and must be submitted in writing with the application for certification. The division retains the right of inquiry and verification of all information submitted.

E. Denials of certification under this part are subject to appeal under part 1230.1700, subpart 6.

Statutory Authority: *MS s 16C.19*

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