

CHAPTER 300

AN ACT concerning the establishment of a program for socially and economically disadvantaged business owners and supplementing Title 52 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.52:32-31.15 Definitions.

1. As used in this act:

"Contracting agency" means the State or any board, commission, committee, authority, instrumentality, or agency of the State over which the Governor exercises executive authority.

"Department" means the Department of the Treasury.

"Economically disadvantaged" means that the owner or owners of a business enterprise:

demonstrate that the ability to compete for State contracts has been impaired due to diminished capital and credit opportunities, as compared to others in the same or similar line of business who are not socially disadvantaged; and

demonstrate a personal net worth that does not exceed a level established by the department, but does not include equity in any personal residence or business for which the person is applying for certification.

"Qualified business enterprise" means a business which has its principal place of business in the State, is independently owned and operated, meets all other qualifications as established in accordance with this act, and is certified for participation in the program by the department.

"Socially disadvantaged" means that the owner or owners of a business enterprise:

demonstrate membership in a racial minority group or show personal disadvantage due to color, ethnic origin, gender, sexual orientation, gender identity, physical disability including, but not limited to, a service-connected disability declared by the United States Department of Veterans Affairs, or its successor, long-term residence in an environment isolated from the mainstream of American society, or location in an area of high unemployment, with such demonstration creating a presumption that may be rebutted; or

demonstrate a business location in a qualified census tract having a poverty rate of 20 percent or more; or a census tract in which the median family income for the census tract does not exceed 80 percent of the greater of the Statewide median family income or the median family income of the metropolitan statistical area in which the census tract is situated.

C.52:32-31.16 Socially, economically disadvantaged business enterprise owners, program, Department of the Treasury; certification, qualifications.

2. a. The department shall establish a program for qualified business enterprise owners that are socially and economically disadvantaged and certified as qualified in accordance with this act, P.L.2023, c.300 (C.52:32-31.15 et seq.). To establish and implement the program, the department shall:

(1) establish a procedure through which a socially and economically disadvantaged business owner may apply for certification as a qualified business enterprise under the program, which certification shall be supported by available data and information;

(2) establish a system for accepting State-approved third party certifications for the purpose of certifying qualified business enterprises;

(3) establish reasonable regulations appropriate for controlling the certification of socially and economically disadvantaged businesses as qualified business enterprises and for maintaining a list of such business enterprises;

(4) establish a procedure for annually reviewing the list of qualified business enterprises for the purpose of determining whether a business on the list is eligible to maintain its certification as a qualified business enterprise; and

(5) establish a procedure through which the certification of a business as a qualified business enterprise may be challenged by a third party.

b. Any procedures established pursuant to paragraphs (1), (4), and (5) of subsection a. of this section shall include notice to the business owner whose certification is at issue and an opportunity for a hearing before the department. The hearing shall not be considered a contested case pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

C.52:32-31.17 Contracting agency procurement goals, qualified business enterprises.

3. a. (1) The department shall establish contracting agency procurement goals for contracting with qualified business enterprises in the awarding of contracts. These goals may, where appropriate, be attained by the direct designation of prime contracts for qualified business enterprises or by subcontracting, and in accordance with and supported by available data and information. Each contracting agency shall make a good faith effort to attain the goals established in this section.

(2) The department shall develop a process for evaluating and adjusting goals to determine what adjustments are necessary to achieve participation goals.

b. Each contracting agency shall annually develop, in consultation with the department, a plan for achieving its qualified business enterprise goals.

C.52:32-31.18 Contracting agencies, report, Department of the Treasury, content requirements; department report to Governor, Legislature.

4. Each contracting agency shall submit an annual report to the department according to a schedule announced by the department. This report shall include the following information:

a. the total dollar value and number of contracts awarded to qualified business enterprises, and the percentage of the total State procurements by the contracting agency that the figure of total dollar value reflects;

b. the types and sizes of businesses receiving contracts and the nature of the purchases and contracts; and

c. the efforts made to publicize and promote the program.

The department shall receive and analyze the reports submitted by the contracting agencies and, utilizing these data, submit an annual report to the Governor, and the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), showing the progress being made toward the objectives and goals of this act during the preceding fiscal year.

5. The Department of the Treasury shall promulgate rules and regulations, in accordance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this act.

6. This act shall take effect the 181st day next following enactment, except the State Treasurer may take any anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved January 16, 2024.