

State of Delaware Office of Supplier Diversity

POLICY

for Diverse Businesses (MBE, WBE, VOB, SDVOBE, & IWDBE) and Small Businesses (SBF)

<b>Policy Name:</b>	Policy for Diverse and Small Business Certification
<b>Date Issued:</b>	Pre-2013, revised 2014
<b>Date Revised:</b>	February 2025
<b>Policy Owner:</b>	Executive Director, OSD

**POLICY STATEMENT:**

The mission of the Office of Supplier Diversity (OSD) is to assist the entire supplier diversity community of Minority, Women, Veteran, Service Disabled Veteran, and Individuals with DisAbilities owned businesses as well as Small businesses of a unique size in competing for the provision of commodities, services, and construction to State departments, agencies, authorities, school districts, higher education institutions and all businesses.

Steps to accomplish our mission include:

- Certifying diverse and uniquely sized small businesses enterprises;
- Creating and supporting an online [Directory of Certified Businesses](#) , diverse and small, and also in [Open Data](#);
- Increasing knowledge of and access to opportunities for diverse and small businesses to participate in state procurement;
- Encourage Supplier Diversity Plans to include utilization of the Directory when making under threshold procurements; and
- Measuring, analyzing, and reporting on spend for current and future procurements with diverse and uniquely sized small businesses.

**PURPOSE:**

The purpose of this policy is to establish guidelines and expectations for eligibility for certification as a diverse or small business.

**EFFECTIVE DATE:**

OSD will accept the currently used application formats until the effective date of August 30, 2017, after which on the attached application will be accepted.

**GENERAL GUIDELINES FOR ELIGIBILITY:**

Generally, certification is met when applicant(s) own and control a minimum of 51% of the firm, including the daily operation of the business for which customers pay the firm. Control may not be demonstrated if it is by others who are not the 51% owners, or if the 51% owners do not hold independent knowledge and ability, which may include licensure, to perform the operations for which customers pay the firm. The control must rest with the owners applying for certification. If owners perform only or primarily administrative tasks, which are not services offered to clients, or if owners do not hold current requisite Delaware licenses or certifications for services provided to customers, then control may not be met.

The general guidelines regarding eligibility are provided below.

All Business Applicants:

- a. A for profit business with “useful business function(s).”
- b. Ownership must be held by U.S. Citizen(s) or Permanent Resident(s).

**State of Delaware Office of Supplier Diversity  
POLICY**

**for Diverse Businesses (MBE, WBE, VOB, SDOBE, & IWDBE) and Small Businesses (SBF)**

- c. Meet the specific eligibility requirements of the certification being applied for.  
Diverse Business Applicants - Minority, Women, Veteran, Service Disabled Veteran, and/or Individual with DisAbility owned business (sole-proprietorship, partnership, corporation or joint venture) must meet general guidelines for all business at items a, b, and c above, as well as the following criteria:
- d. Minority groups include: African Americans, Asian/Pacific Americans, Hispanic Americans, Native Americans, and Subcontinent Asian Americans, and
  - e. At least 51 percent owned, controlled, and actively managed by: minorities, women, veterans, service disabled veterans, and/or individuals with DisAbility.

Small Business Applicants – a Small Business must meet general guidelines for all business at items a, b, and c above, as well as the following criteria:

- f. Be within one of the six industry sectors and at or under the eligibility size caps identified in the chart below; and
- g. Operate free from the control of a business larger than the eligibility size caps identified below.

Small Business Certification Industries	NAICS <sup>1</sup> sectors* (initial code numbers)	Small business eligibility and graduation point size caps	
		FTE (full time equivalents)	Gross sales
		Based upon a 3 year average	
Architecture & Engineering Services	541	none	< \$3,500,000
	237		
Construction	23	< 250	< \$7,000,000
Manufacturing	31	< 250	none
	32		
	33		
Retail	42	< 25	< \$3,500,000
	44		
	45		
Service	various	< 50	< \$3,500,000
Wholesale	42	< 50	none

The size cap is both an eligibility guideline and a graduation point. The size eligibility criteria are based upon one or all of the following three year averages: (1) gross sales, (2) number of full-time equivalents (employees), or (3) both (if both categories have a cap then either/both apply). The Small Business Focus Program is for business enterprises that are 50% of the SBA<sup>2</sup> and Delaware DOT DBE size caps for the smallest size cap within each industry sector. Those numbers are identified in the chart above.

<sup>1</sup> [North American Industry Classification System \(NAICS\)](https://www.census.gov/naics/) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. A NAICS code has 6 digits. The first 2 to 3 digits are used to identify the industry for the Small Business Focus Program. You can review NAICS at: <https://www.census.gov/naics/>

<sup>2</sup> You can find the SBA size cap information located at: <http://www.sba.gov/content/table-small-business-size-standards>. It is available in PDF or excel formats.

State of Delaware Office of Supplier Diversity

POLICY

for Diverse Businesses (MBE, WBE, VOB, SDVOBE, & IWDBE) and Small Businesses (SBF)

**SPECIFIC GUIDELINES FOR ELIGIBILITY:**

**CERTIFICATION APPLICATION**

**ELIGIBILITY AS A DIVERSE BUSINESS:**

**Information and Definitions**

**Certification Application as a Diverse Business:**

Contained within these materials is the application for Minority, Women, Veteran, Service Disabled Veteran, and Individual(s) with DisAbility Business Enterprise certification with the State of Delaware. All appropriate questions must be answered. Please type or print clearly.

**Definitions**

**Minority, Women, Veteran, Service Disabled Veteran, and/or Individual with DisAbility Owned Business Enterprise**

Is a business that is at least 51 percent owned, controlled and actively managed by Minority, Women, Veteran, Service Disabled Veteran, and/or Individual with DisAbility group members who are United States citizens or persons lawfully admitted to the United States for permanent residence. The business must be a for-profit business and currently be performing a Useful Business Function.

**Minorities:** United States citizens or permanent residents who are African (Black) Americans, Asian/Asian-Pacific Americans, Hispanic Americans, Native Americans, Subcontinent Asian Americans, or 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;

**Asian/Asian-Pacific Americans:** All persons having origins from any of the original peoples of the Far- East, Asia, or the Pacific Islands, including China, Japan, Korea, Samoa, Philippine Islands, and Hawaii, Guam, U.S. Trust Territories of the Pacific or the Northern Marinas;

**Hispanic Americans:** Persons having origins from any of the Spanish-speaking people of México, 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 which is recognized as eligible for the special programs and services provided by the United States to Indians/Native American because of their status as Indians/Native American, and/or is recognized by the State of Delaware; and/or

**Subcontinent Asian Americans:** All persons whose ancestors originated in India, Pakistan or Bangladesh.

**Veteran:** An individual who has served in the United States military or has served in the National Guard of the United States for six months and has received a discharge other than a dishonorable discharge.

**Service Disabled Veteran:** An individual meeting the above criteria for Veteran, who is verified through VetBiz.gov or the Veteran Administration as a Service Disabled Veteran.

**Individual with DisAbility:** standing is verified by a certificate or letter from a government office that: certifies an individual as such, or by the Social Security Administration, or a Doctor letter identifying the fact of a disability and the expected duration of same (see the materials identified on page 13).

**Certification -** A determination by the OSD that a for-profit business entity is a Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Veteran Business Enterprise (VOBE), Service Disabled Veteran Owned Business Enterprise (SDVOBE), and/or an Individual with DisAbility Business Enterprise (IWDBE). Certifications expire after three years.

State of Delaware Office of Supplier Diversity

POLICY

for Diverse Businesses (MBE, WBE, VOB, SDVOBE, & IWDBE) and Small Businesses (SBF)

**Ownership**

The Minority, Women, Veteran, Service Disabled Veteran, and Individual(s) with DisAbility Business Enterprise ownership interest in the firm must be real, substantial and continuing and shall go beyond the pro forma ownership of the business as reflected in its ownership documents. The diverse 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. Ownership is based upon 51% or more ownership of the company inclusive of all classes of stock or ownership criteria.

**Control**

Control will be exemplified by possession of the requisite knowledge and expertise to run the particular business. Control includes the authority to determine the direction of a business, including but not limited to capital investments and all other financial transactions; property acquisitions; day-to-day decisions; 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.

The diverse owner(s) must hold the highest officer position in their company, example: Chief Executive Officer or President. If more than one owner constitutes 51% then all shall hold the highest officer positions, except it is not expected that all are the same office.

The diverse owner(s) must demonstrate that they possess the experience, expertise and knowledge to operate their particular type(s) of business.

Expertise limited to office management, administration, or bookkeeping functions unrelated to the principal business activities of the company is insufficient to demonstrate control. Diverse owners must also verify that they

hold any licenses or certifications required by the type of business in which they are engaged.

**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.

**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 veterans. In the case of a corporation, veterans must also hold at least 51% of the voting interest.

**Service Disabled Veteran Owned Business Enterprise (SDVOBE)** – A for-profit business in which at least 51% of beneficial interest and control is held by serviced disabled veterans. In the case of a corporation, service disabled veterans must also hold at least 51% of the voting interest.

**Individual with DisAbility Owned Business Enterprise (IWDBE)** - A for-profit business which at least 51% of beneficial interest and control is held by individual(s) with disAbilities. In the case of a corporation, individuals with disAbilities must also hold at least 51% of the voting interest.

**Useful Business Function**

A useful business function is one, which results in the provision of materials, supplies, equipment or services to consumers in the State. A business acting as a conduit to transfer funds to a non-diverse business does not constitute a useful business function unless doing so is a normal industry practice.

## State of Delaware Office of Supplier Diversity

### POLICY

#### for Diverse Businesses (MBE, WBE, VOB, SDVOB, & IWDBE) and Small Businesses (SBF)

##### Benefits of Certification

Current certified Minority, Women, Veteran, Service Disabled Veteran, and/or Individual with DisAbility owned firms are eligible to be listed in the State of Delaware online Directory of Certified Businesses, which is hosted on the Office of Supplier Diversity webpage and is available to government and public.

##### Recertification

Recertification is not automatic and is not guaranteed. Sixty days prior to expiration of the original certification date, firms must submit the recertification application and affidavit to remain certified and actively visible in the State of Delaware's Minority, Women, Veteran, Service Disabled Veteran, and/or Individual with DisAbility Owned Business Enterprise database and online Directory. Businesses must continue to meet eligibility for certification in order to become recertified. Substantial changes in a previously certified business may change eligibility. Failure to submit a recertification application will cause the company to be removed from the online Directory as an expired certification. A company whose certification has expired for more than 60 days, is invited to submit a new application for certification, the recertification option will have tolled.

##### Eligibility

A Minority, Women, Veteran, Service Disabled Veteran, and/or Individual with DisAbility Owned Business Enterprise (sole-proprietorship, partnership, corporation, LLC, or joint venture) must meet the following criteria:

- a) At least 51 percent owned, controlled and actively managed by Minority group members (as defined on pages 5 and 6), Women, Veterans, Service Disabled Veterans, and/or Individuals with DisAbilities, all of whom are U.S. Citizens or permanent residents;
- b) Demonstrate ownership and control (as defined on pages 5, 6 and 7); and

- c) Serve a for-profit business with "useful business functions." (as defined on pages 8 and 9),

**Reasons for denial** (please note reasons for denial may include but are not limited to the below)

- a) A business located in a state other than Delaware must first obtain state-level certification in its home state, if such certification is available. "Home state" is defined as the state where the company's headquarters are located.
- b) Securities, which constitute 51% ownership and control of a company for the purpose of establishing it as an eligible firm, must be held directly by Minorities, Women, Veterans, Service Disabled Veterans, and/or Individuals with DisAbility. No securities held in trust, or by a guardian for a minor, shall be considered as held by a Minority, Women, Veteran, Service Disabled Veteran, and/or Individual with DisAbility in determining the ownership or control of the business enterprise unless the applicant individual is the sole trustee and sole beneficiary of said trust.
- c) If the business operations do not reflect the ownership shown on paper.
- d) Firm is not a for-profit business.
- e) Firm has provided false or misleading information
- f) Control will not be deemed to exist in cases of simple majority or absentee ownership, or when a non-minority/non-female/non-veteran/ non-service disabled veteran/non-individual with DisAbility owner or employee of the firm is disproportionately responsible for its operation.
- g) The firm shall not be subject to any formal or informal restrictions, for example through: by-laws provisions, partnership agreements, or charter requirements for cumulative voting rights or otherwise that prevents the diverse owners, without the cooperation or vote of any owner who is

## State of Delaware Office of Supplier Diversity

### POLICY

#### for Diverse Businesses (MBE, WBE, VOB, SDVOB, & IWDBE) and Small Businesses (SBF)

- not a diverse owner, from making a business decision of the firm.
- h) If the owners of the firm who are not Minority, Women, Veteran, Service Disabled Veteran, and/or Individual with DisAbility are disproportionately responsible for the operation of the firm, then the firm is not controlled by and shall not be considered as eligible within the meaning of the definition. Where the actual management of the firm is contracted out to individuals other than the owner, those persons who have the ultimate power to hire and fire the managers, can, for the purpose of this definition be considered as controlling the business.
- i) The certification application was submitted incomplete.
- j) The applicant abandoned the application and was non-responsive to OSD.
- the national corporate minority certifying entity National Minority Supplier Development Council ([NMSDC](#)),
  - the national corporate women certifying entity Women Business Enterprise National Council ([WBENC](#)),
  - and/or City of Wilmington, DE.

You must attach a copy of the other current certification and submit all documents to the OSD;

if certificates are not issued by your certifying entity then you must provide OSD with the URL link for the location of your company's certification in the online listing of the certifying entity.

### CERTIFICATION APPLICATION ELIGIBILITY AS A SMALL BUSINESS:

Information and Definitions

### OUT OF STATE APPLICANTS

An out-of-state company must first **be certified in its home state** before it can be considered for certification in Delaware. This must be a state-level certification, if available. Home state is not restricted to nor only the state of business formation, rather it is the location of the company's headquarters or primary office. **A physical location in Delaware is required to be considered an in-state applicant; only having a registered agent here does not qualify as in-state.**

#### If your business is certified by another certifier?

You may be eligible to respond to a subsection of the application questions.

Included certifiers:

- Delaware Department of Transportation (DeIDOT),
- Maryland Department of Transportation (MDOT),
- Pennsylvania Department of Transportation (PAUCP),
- Small Business Administration (SBA) Veterans Certification

#### Ownership

The Small Business Focus (SBF) certification is based upon the size of a business entity rather than who the owners are however, businesses cannot be majority owned or controlled by one or more business entities that are larger than the eligibility size of the SBF Certification size standards.

#### Control

Businesses in the SBF Program cannot be controlled by a majority nor non-majority owner that is larger than the eligibility size of the SBF Program.

The company may be asked to verify that the owners/company holds any licenses or certifications required in Delaware for the type of business in which they are engaged.

#### Useful Business Function

A useful business function is one, which results in the provision of materials, supplies, equipment or services to consumers in the State. A business acting as a conduit to transfer funds to one or

**State of Delaware Office of Supplier Diversity**

**POLICY**

**for Diverse Businesses (MBE, WBE, VOB, SDVOB, & IWDBE) and Small Businesses (SBF)**

more business entities that are larger than the eligibility size of the SBF Program does not constitute a useful business function unless doing so is a normal industry practice. If your firm is new or has not been in business for at least three years, you can still apply for SBF certification.

**Reasons for denial** (*please note denial may include but not be limited to the below*)

- a) If the majority owner(s) of the firm is one or more business entities that are larger than the eligibility size of the SBF Certification size standards.
- b) All/any securities, which constitute majority ownership and/or control of a company or firm for the purpose of establishing it as an eligible firm, must not be held by one or more business entities that are larger than the eligibility size of the SBF Certification size standards.
- c) If the business operations do not reflect the ownership shown on paper.
- d) Firm is not a for-profit business.
- e) Firm has provided false or misleading information.
- f) Control will not be deemed to exist in cases of simple majority, absentee ownership, or when a non-majority owner is disproportionately responsible for its operation.
- g) The firm shall not be subject to any formal or informal restrictions through, for example: by-law provisions, partnership agreements, or charter requirements for cumulative voting rights or otherwise, that prevents the majority owners, without the

cooperation or vote of any non-majority owner including but not limited to one or more business entities that are larger than the eligibility size of the SBF Certification size standards, from making a business decision for the firm.

- h) The certification application was submitted incomplete.
- i) The applicant abandoned the application and was non-responsive to OSD.

**Benefits of Certification**

Current certified Small Businesses are eligible to be listed in the State of Delaware online Directory of Certified Businesses, which is hosted on the Office of Supplier Diversity webpage and is available to government and public.

**Recertification**

Recertification is not automatic and is not guaranteed. Sixty days prior to expiration of the original certification date, firms must submit the recertification application affidavit to remain certified and actively visible in the State of Delaware's database and online Directory. Businesses must continue to meet eligibility for certification in order to become recertified. Substantial changes in a previously certified business may change eligibility. Failure to submit a recertification application will cause the company to be removed from the online Directory as an expired certification. A company whose certification has expired for more than 60 days, is invited to submit a new application for certification, the recertification option will have tolled.

**State of Delaware Office of Supplier Diversity**  
**DOCUMENTS TO SUBMIT WITH APPLICATION**  
for Diverse Businesses (MBE, WBE, VOB, SDVOB, & IWDBE) and Small Businesses (SBF)

**Application Document Request checklist**

Unless otherwise indicated, copies of documents are sufficient. Any deficiency may delay the certification process. Certification generally takes four to six weeks. An on-site visit may be requested and scheduled by OSD once the completed application and appropriate supporting documentation are received.

Applicant	Documents to attach to your application	Sole Prop	Part/LLP	Corp/S-Corp	LLC
All	Completed application, identifying all owners constituting 51% ownership and control.	Yes	Yes	Yes	Yes
All	Current Notarized "Certification Application Affidavit", one each for all constituting 51% ownership and control.	Yes	Yes	Yes	Yes
All	Relevant Professional or Trade Licenses, Certificates, documents of training, and degrees held by the 51% owner(s), or by the company based upon the 51% owner(s)' status for such license or certificate. (i.e. Electrician, HVAC, Engineer, Medical Profession, Attorney, Hairdresser License, etc.).	Yes	Yes	Yes	Yes
All	Current State of Delaware Business License (required for all Delaware based businesses and for out-of-state businesses currently performing work in Delaware). (see the Division of Revenue, Licensing and Registration website with questions at: <a href="http://revenue.delaware.gov/services/Business_Tax/Step3.shtml">http://revenue.delaware.gov/services/Business_Tax/Step3.shtml</a> )	Yes	Yes	Yes	Yes
Out of state diverse applicants	If from out-of-state, copy of other applicable certification from home state (home state is the location of the company headquarters, not the state of formation) (must be a state level certification, if available). OSD will accept NMSDC and/or WBENC and/or VetBiz.gov in lieu of home state.	Yes	Yes	Yes	Yes
All new applicants	Governance Documents:		Yes	Yes	Yes
	Partnership Agreement, including any amendments, buy-out rights, and profit sharing arrangements		Yes		
If certified elsewhere, only if requested.	Articles of Incorporation with all amendments			Yes	
	Minutes of the last annual shareholders meeting			Yes	
	Minutes of the last Board of Directors meeting			Yes	
	By-laws and all By-law Amendments			Yes	
	Copy of most recent Stock Ledger			Yes	
	Copy of Operating Agreement, with list of members, ownership amount of each member, and capitalization				Yes
	Franchise Agreement(s), if any	Yes	Yes	Yes	Yes
<b>SBF only</b>	<b>Seeking Small Business certification – provide the first page of the past three (3) years of your firm's tax returns (gross receipts) (1120, Schedule C of 1040).</b>	Yes	Yes	Yes	Yes
<b>Diverse</b>	<b>Other documents as identified on page 13, or as may be requested by OSD.</b>	<b>Only if requested</b>			



**State of Delaware Office of Supplier Diversity**  
**DOCUMENTS THAT MAY BE REQUESTED TO SUPPLEMENT APPLICATION**  
**for Diverse Businesses (MBE, WBE, VOB, SDVOB, & IWDBE) and Small Businesses (SBF)**

**Additional documents may be requested of Diverse or Small Business Applicants:** In addition to the universal application materials identified as required within this application as well as the Affidavit, which all diverse and/or small business applicants will provide, OSD may also seek from each 51% owner a copy of materials to document U.S. Citizenship, permanent residency, ethnicity, gender, veteran status, and DisAbility status. Below is a non-exhaustive list of possible additional materials that may be requested. In addition to the list below, if OSD requests of a vendor to provide supporting documents, such vendor may elect to provide the requested documents and any other documentation for review by OSD for consideration to support the individual's standing; such other documentation may or may not be determined to suffice. **Applicants are instructed to not provide any of the below unless specifically requested by OSD**

U.S. Citizenship or Permanent Residency:

- U.S. birth certificates, U.S. permanent resident card, U.S. passport, U.S. tribal membership card

Ethnic Minorities:

- Documents of ethnicity may include the birth certificate of the applicant, U.S. Passport identifying foreign place of origin, and/or tribal registry card.
  - If applicant's birth certificate does not identify ethnicity then also provide the birth and/or death certificates of applicant's parent(s) as named on applicant's birth certificate. If parent(s)'s documentation does not identify ethnicity, continue in parental lineage with birth or death certificates. If the document identifies 'colored' or any other mark that is not specifically naming an ethnicity, the applicant will inform OSD which ethnicities apply.
  - If Native American, please provide a current tribal membership card from a North American tribe or nation which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and/or is recognized by the State of Delaware.
  - Or other government issued documentation that demonstrates ethnicity to the satisfaction of OSD.

Gender:

- Women may provide birth certificates or current U.S. Passports identifying female gender.

Individuals with Disabilities: any one (1) of the following:

- A Certificate of Disability from the Delaware (or their home state's) Department of Labor, Division of Vocational rehabilitation, (The DisAbility itself need not be revealed); or
- A Certificate of Disability from the Delaware (or their home state's) Division of the Visually Impaired, (The DisAbility itself need not be revealed); or
- A letter from the U.S. Social Security Administration documenting that named individual is eligible to receive Social Security Disability Income. (the DisAbility itself and the dollar amount of the SSDI can be redacted); or
- A letter from a Medical Doctor (M.D.) documenting the person's name and the fact that they have a DisAbility and the duration of the DisAbility. (The DisAbility itself need not be revealed); or
- Any other documentation of disability for review by the Office of Supplier Diversity for consideration to support the individual's standing as an Individual with DisAbility; such other documentation may or may not be determined to suffice. The Office of Supplier Diversity may outreach to local and national resource partners to verify the example of any other documentation without sharing the actual documents.

Veterans and Service Disabled Veterans:

- The DD214 form for the applicant.
- If Service Disabled, then documentation from the Veterans Administration documenting the fact. (The DisAbility itself need not be revealed)