

## CHAPTER 11

## WOMEN-OWNED AND MINORITY-OWNED BUSINESSES

## Authority

N.J.S.A. 10:5-36(k) and (o), 52:-18A-30(d), 52:25-1 et seq., 52:27H-6(f), 52:32-17 et seq., 52:34-6 et seq., 52:34-12, 52:34-13 and Executive Order No. 84(1993).

## Source and Effective Date

R.1998 d.238, effective April 22, 1998.  
See: 30 N.J.R. 968(a), 30 N.J.R. 1835(a).

## Executive Order No. 66(1978) Expiration Date

Chapter 11, Women-owned and Minority-owned Businesses, expires on April 22, 2003.

## Chapter Historical Note

Chapter 11, Women-Owned and Minority-Owned Businesses, was adopted as R.1987 d.376, effective September 21, 1987. See: 19 N.J.R. 1176(a), 19 N.J.R. 1739(a).

The Executive Order No. 66(1978) expiration date of Chapter 11, Women-owned and Minority-owned Businesses, was extended by gubernatorial directive from September 21, 1992 to April 30, 1993. See: 24 N.J.R. 4333(a).

Pursuant to Executive Order No. 66(1978), Chapter 11, Women-owned and Minority-owned Businesses, was readopted as R.1993 d.237, effective April 30, 1993. See: 25 N.J.R. 1056(a), 25 N.J.R. 1753(a), 25 N.J.R. 2484(a).

Pursuant to Executive Order No. 66(1978), Chapter 11, Women-owned and Minority-owned Businesses, was readopted as R.1998 d.238, effective April 22, 1998. See: Source and Effective Date. See, also, section annotations.

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## SUBCHAPTER 1. CERTIFICATION

## 12A:11-1.1 Application and scope

(a) The rules in this subchapter are promulgated by the Department of Commerce and Economic Development to implement the Unified Certification Act, P.L. 1986, c.195. The Act establishes a unified procedure for the certification of women-owned and minority-owned firms, which firms are seeking to qualify for certain government programs and firms doing business with casino licensees pursuant to P.L. 1987, c.137.

(b) The Act requires the Department of Commerce and Economic Development to establish and implement standards and procedures for certifying women-owned and minority-owned businesses for certain government programs and firms doing business with casino licensees pursuant to P.L. 1987, c.137.

(c) Applications and questions regarding certification of women-owned and minority-owned businesses should be addressed to:

N.J. Department of Commerce and Economic Development  
Contracting Opportunity and Certification Office  
PO Box 835  
20 West State Street  
Trenton, New Jersey 08625-0835

(d) The Act applies to every women-owned and minority-owned firm that wishes to do business with any department or agency of the State of New Jersey which department or agency has specific programs which require the certification of authenticity of ownership for women-owned and minority-owned businesses and for businesses wishing to do business with casino licensees pursuant to P.L. 1987, c.137.

Amended by R.1998 d.238, effective May 18, 1998.  
See: 30 N.J.R. 968(a), 30 N.J.R. 1835(a).  
Changed mailing address.

## 12A:11-1.2 Definitions

The words and terms used in this subchapter shall have the following meanings unless the context clearly indicates otherwise:

“Administrator” means the Administrator for the Contracting Opportunity and Certification Office.

“Broker” means a person who for all or part of his time is in the business of buying and/or selling of tangible and/or non-tangible property in the capacity of but not limited to a manufacturers representative, distributor, or agent (non-employees of the business) and who does not exercise dominion or possess title over the items or things for sale.

“Certification” means a minority-owned or women-owned business enterprise has been authenticated as being at least 51 percent independently owned and managerially controlled and operationally controlled either by minorities or females for participation in State programs requiring certification, as judged and determined by the Contracting Opportunity and Certification Office of the Department of Commerce and Economic Development.

“Commissioner” means the Commissioner of the Department of Commerce and Economic Development.

“Contracting Opportunity and Certification Office” means the office in the Department of Commerce and Economic Development which is given sole authority over certification of minority and women businesses for State programs or which may provide certification for Federally mandated programs.

“Days” means the normal operating business days of the State.

“Department” means the Department of Commerce and Economic Development.

“Director” means the Director of the Division of Development for Small Businesses and Women and Minority Businesses in the Department of Commerce and Economic Development.

“Division” means the Division of Development for Small Businesses and Women and Minority Businesses in the Department of Commerce and Economic Development.

“Managerial and operational control” means authority over the affairs of a business, including, but not limited to, capital investment, property acquisition, employee hiring, contract negotiations, legal matters, officer and director selection, operating responsibility, financial transactions and the rights of other shareholders or joint partners; except that managerial and operational control shall not include absentee ownership, nor shall it be deemed to exist where an owner or employee who is not a minority, in the case of a minority business, or a male owner or employee, in the case of a women business, is disproportionately responsible for the operation of the business or for policy and contractual decision. The term means that the applicant currently must possess the knowledge and authority to weigh all advice given and make an independent determination, and that the applicant should have experience and technical competence in the business to which certification is being sought, that is, the working knowledge and ability needed to operate a business in the given industry or service area. Managerial and operational control will also not be deemed to exist if in the judgment of the Administrator of the Contracting Opportunity and Certification Office and by normal industry standards, minorities or women are not reasonably judged to be in control of that business. Examples of such absence of managerial and operational control could include brokers, manufacturers’ representatives and franchisees.

“Minority” means a person who is:

1. Black, which is a person having origins in any of the black racial groups in Africa; or
2. Hispanic, which is a person of Spanish or Portuguese culture, with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race; or
3. Asian American, which is a person having origins in any of the original peoples of the Far East, Southeast Asia, Indian Subcontinent, Hawaii or the Pacific Islands; or
4. American Indian or Alaskan native, which is a person having origins in any of the original peoples of North America.

“Minority business” means a business which is:

1. A sole proprietorship, partnership or joint venture owned and controlled by minorities in which at least 51 percent of the ownership interest is held by minorities and the management and daily business operation are controlled by one or more of the minorities who own it; or
2. A corporation or other business entity authorized under the laws of the United States whose management and daily business operations are controlled by one or more minorities who own it, and which is at least 51 percent owned by one or more minorities or, if stock is issued, at least 51 percent of the stock is owned by one or more minorities.

“MBE” means a minority business enterprise.

“Noncompliance” means failure to comply with specificall-ly requested additional information or documentation.

“Principal” means any officer, director, or individual who directly or indirectly holds any beneficial interest in or ownership of the securities of the business and/or any employee of the business who is empowered by title or by explicit assignment to authorize the procurement, purchase, or contracting of equipment, goods, services, or supplies whatsoever involving an expenditure of \$1,000.00 or greater.

“Public agency” means the State or any department, division, agency, authority, board, commission or committee thereof.

“Rejection” means an administrative decision not to process an application.

“WBE” means a women business enterprise.

“Woman or women” means a female or females, regardless of race.

“Women business” means a business which is:

1. A sole proprietorship owned and controlled by a woman; or