

NEWS & INSIGHTS

Small diverse business certification basics for Pennsylvania government contracts

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FEBRUARY 16, 2022



An explicit goal of the Pennsylvania governor's office is to increase small diverse business contractors that receive government contracts (SDBs). Gov. Tom Wolf has set a goal of increasing the percentage of SDB contracts to 26.3%, which is approximately a 400% increase. So how does a construction company qualify as eligible to receive the preferred treatment of an SDB? And are there any opportunities for non SDBs to partner and obtain Commonwealth contracts?

The first step for qualifying as a SDB is to self-certify as a small business. Pennsylvania requires the business entity to: be properly registered as a business and legally operating within the Commonwealth; employ no more than 100 full time-equivalent employees; have gross revenues under \$38.5 million; and not be a dominant force in its industry. Upon completion of the small business self-certification, the entity will receive a certificate and can begin competing as a small business for contracts within the Commonwealth. Businesses should note, though, that self-certification does not confer small diverse business status.

To obtain SDB status, the company must be “verified” by a third-party entity approved by the Department of General Services. The third party will verify:

- The entity is at least 51% owned by someone who is a woman, a minority, a veteran, disabled or LGBT; and
- The company is controlled, operated and managed by a diverse individual or individuals.

Non-diverse individuals may be employed and can even hold positions of authority, but overall ownership and executive team must be a woman, minority, veteran, disabled or LGBT.

A wide array of supporting documentation will be required from prospective SDBs, such as: (1) proof of U.S. citizenship; (2) proof of diverse status; (3) financial statements; (4) statement of the history of the business; and (5) corporate operating agreements. A site visit will also be completed by the third party verifier. Third party verification can take 60 – 90 days. Entities are also required to pay a fee ranging from \$300 to over \$1,000 depending on the size of the business.

Once approved, the certification lasts for one year from the date of the self-certification certificate, which means the SDB must re-certify annually. The re-certification process requires, among other things, the previous year’s tax return, statement of changes in ownership or management, all W2s for all officers, directors and owners, and payment a non-refundable processing fee.

In a second part article, we will discuss how non-SDB entities can team with SDB entities to bid on public contracts.

Legal counsel can assist with SDB certification

Navigating the process for becoming a certified SDB can be overwhelming; however, having a working understanding of the general requirements can make the process less intimidating. The attorneys in Saxton & Stump’s [Construction Law Group](#) can assist business owners seeking to become a certified small diverse business.

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