

## LAMSDC Certification Practices & Cert Program Threshold Commentary

Presentation to the EBR Parish Fair Share Program Task Force by the Louisiana Minority Supplier Development Council – [www.LAMSDC.org](http://www.LAMSDC.org)  
Wednesday, September 23, 2009

### A. LAMSDC Certification Overview

- a. The Louisiana Minority Supplier Development Council (LAMSDC) provides certification for ethnic minority-owned, operated and controlled entities seeking to do business in the private sector.
- b. The certification is a two-part application process that requires the certification application to be filled out online, printed/signed and notarized, as well as the submission of additional documentation.
- c. To become certified the applicant must show through the certification process the ownership, management and control of the company to be in the hands of an ethnic minority as classified by NMSDC's policies and procedures.

### B. LAMSDC Certification Process

- a. The online application can be found at [www.LAMSDC.org](http://www.LAMSDC.org). An overview and explanation of the process is provided as well as FAQs.
- b. The certification process is as follows;
  - i. The applicant must register and then access the application. A login and password are provided and identified by the applicant's email.
  - ii. The application should be filled out in its entirety and can be saved for later completion. Failing to complete all sections will result in the applicant not being able to submit the online form and moving forward.
  - iii. The application fee is \$300, payable by credit card or check, and is non-refundable.
  - iv. A completed, signed and notarized application is mailed by the applicant along with supporting documentation to LAMSDC.
  - v. The application and documents are reviewed for completeness and is forwarded with a staff recommendation to the certification committee for review within 45 days of receipt.
  - vi. A site visit is scheduled and performed.
  - vii. The committee recommendation is forwarded to the LAMSDC Board for approval or denial and the applicant firm is notified of the decision by letter.
  - viii. If the application is denied, the applicant has 30 days to submit a written request for appeal.
  - ix. The appeal is granted within 30-60 days and the applicant may appear before the certification committee or submit a written response to the denial reason(s) stated in the disposition letter.

- x. If the applicant's appeal is then denied, the applicant may reapply one-year from the date of denial.
- c. Certification Criteria
  - i. The firm seeking certification must be minimally 51% owned by an ethnic minority applicant.
  - ii. Day to day management of the firm must be by the minority applicant or minority parties under direction of the applicant.
  - iii. Control of the firm's operations must be under the direction of the minority applicant.
  - iv. The firm must be for profit, physically located in the U.S. and the owners must be U.S. citizens
  - v. The minority owner must be a member of one of the following minority groups;
    - 1. African-American/Black
    - 2. Asian-Indian
    - 3. Asian Pacific
    - 4. Hispanic/Latino
    - 5. Native American (as evidenced by a tribal membership card and recognized by the U.S. Department of the Interior)

### **C. Thresholds and Disadvantaged Businesses**

- a. The National Minority Supplier Development Council (NMSDC) is focused on getting minority-owned firms involved in the private-sector procurement of goods and services. This is done through certification, events which encourage dialogue between private-sector buyers and decision makers and minority owned businesses and providing information, education and advocacy on behalf of minority firms. The end result is the creation of wealth in the minority community through encouraging growth and development of minority-owned firms through NMSDC and affiliate agency programs.
- b. In order to truly encourage growth and wealth building in the minority community, the NMSDC certification does not have sales, net worth or earnings thresholds. It is the opinion of NMSDC that true growth does not limit opportunity as disadvantaged and small business certifications and programs do. The value of the company to prospective buyers, partners and alliances is hindered by size limitations. The ability to grow and build stronger partnerships is not limited by qualifications which would limit capacity, an important component in the utilization of firms.
- c. Participation in the program encourages growth and building valued, lasting relationships with private sector partners and other participants. Thresholds limit size, growth and capacity which are valuable assets to any business seeking longevity and success. The requirements of local, state and federal programs that are limiting also provide for the exclusion of opportunities to firms who don't meet the disadvantaged qualification. This exclusion results in a pool of firms who have trouble meeting capacity, bonding and other financial requirements as well as quantity and quality of goods and services.

- d. The ability of disadvantaged-type programs to disqualify firms who were once participants but have grown beyond the program on public sector contracts creates a cycle of dependency that results in short-term non-renewable contracts, business failures, and in some cases bankruptcy, which further limits access to capital.
- e. Race and gender neutral programs, that seek to address claims of reverse discrimination and avoid legal challenge by majority companies, narrow opportunities for minority firms. The very group that is underutilized on the basis of race and gender bias to warrant a program in the first place. Barriers are replaced with competition that does not level the playing field but provides an option for primes seeking to obtain contracts without true participation in the program or investment in the municipality.
- f. The stigmas attached to disadvantaged firms make them a less attractive option to prospective buyers. Their limited size leads to lower capacities, less cash reserves and the ability to solve problems that may require a change in operations, more capital, employees and partnership opportunities become greater challenges than for others. The product is tainted prior to utilization which provides an even greater reason for majority firms not to use or participate in programs, regardless of good-faith-efforts rhetoric.
- g. Simple math shows that the lower the threshold, the lower the amount of contracting dollars that will be directed to disadvantaged firms. Their capacity limits their ability to compete for larger contracts, compete as primes and further limits ability to manage their profit margins.
  - i. Prime managers are offered bonuses based on cost-savings. These cost-savings requirements are passed on to subcontractors who can be pressured to lower pricing, speed up the delivery of services/goods (which often results in higher costs for the sub-) and perform services that are not in the contract. Often, subcontracting firms comply for fear of losing the contract or be determined unfit and have their payments withheld or bids rejected.
  - ii. The result of the above practices creates a legitimate perception that minority and small firms are incapable of providing quality service. A self-fulfilling bias that legitimizes primes' poor good-faith-efforts.

#### D. Suggestions for Implementation

- a. Create a threshold that mirrors DOT, SBA standards instead of lessening them.
- b. Provide bonding assistance and waivers where possible.
- c. Discourage bundling and provide for the participation of small firms who are more specialized/limited than their larger counterparts.
- d. Provide for the timely payment of firms based upon completion of tasks and not the prime's payment schedule.
- e. Develop per contract goals based upon the number of firms who can legitimately provide the service required (see LANOIA goal setting under FAA standards)
- f. Encourage on-time delivery at budget for primes. Mirror early-completion and under-budget bonuses for subs participating under the prime contracts.

- g. Develop a strong monitoring and compliance component in the program that also has methodology for solving grievances and monitoring “good-faith-efforts” closely.
- h. Provide assistance to primes for meeting good-faith-efforts.
- i. Encourage certification by UCP, WBENC and NMSDC (LAMSDC) in order to maximize program participants’ opportunities in other contracts that are not EBR Parish driven.
  - i. Self-certification programs do not properly pre-qualify firms for participation.
  - ii. Less stringent certifications will limit pool of qualified applicants and limit applicants’ access to technical assistance programs that are not administered by states and municipalities.
  - iii. Information gathering through the above named processes better help to assess a businesses’ capabilities and capacity.

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