

Revenue Caps for Minority-Owned Small Business Certification

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Issue

Identify states with minority-owned business certifications independent from any revenue criteria. In addition, identify states with revenue criteria for these certifications that have a higher threshold than the state of Connecticut.

Summary

According to 2016 research by the [National Conference of State Legislatures](#) (NCSL), at least 38 states and Washington D.C. have state-level minority business enterprise (MBE) development programs involving certification for participation in state government procurement independent of existing federal disadvantaged business enterprise (DBE) development programs. These programs usually consist of a certification process and a registry of MBEs. They encourage minority business participation through assistance such as technical training on government contracting and the bidding process, as well as notification of current bidding opportunities.

Some states have gone a step further with “set-aside” programs where a certain percentage of government contracting is reserved for minority firms. These set-asides are expressed as goals that government agencies are either encouraged, or required, to meet. As examples, NCSL identified five states, including Connecticut, that operate set-aside programs (the other examples were Illinois, New Jersey, New York, and Ohio).

MBEs are often a subset of small businesses, for which there is no standard definition. Although definitions of small business vary, they are all based on one or more of the following criteria: (1) number of employees, (2) annual revenue, or (3) ownership (e.g., whether the business is independently owned). The federal [Small Business Administration \(SBA\)](#) develops small business “size standards,” which apply to federal law, state and private programs that receive federal funding, and many other state and private programs that adopt the standards.

The SBA standards are based on a business' annual revenues and number of employees and vary by industry sectors as established in the North American Industrial Classification System (NAICS). Except for states that have adopted the SBA standards (e.g., New Jersey, Rhode Island, and Washington), only Illinois was identified as having revenue criteria with a higher threshold than Connecticut’s (see BACKGROUND); however, some other states do not include revenues in their MBE certification criteria (e.g., Indiana and Ohio). Table 1 summarizes state program SBE/MBE goals and thresholds. (Please note that this list is not exhaustive.)

Table 1: Examples of Minority or Small Business Enterprise Contract Goals & Revenue Caps by State

State	MBE Goal (or SBE Goal)	SBE/MBE Revenue Cap
Connecticut CGS § 4a-60g(1) , as amended by PA 19-117 , § 348	6.25% of total value of all contracts for construction, goods, and services for MBEs; (25% for SBEs, including MBEs)	“Small contractors” (including MBEs) cannot exceed \$20 million in gross revenues in the most recently completed fiscal year prior to application
Florida	No specified goal	MBEs must have a net worth of less than \$5 million and 200 or fewer full-time permanent employees
Illinois 30 Ill. Comp. Stat. 575/2	20% aspirational MBE goal for state contracts	Gross sales of businesses owned by minorities, women, or people with disabilities must be less than \$75 million
Indiana Ind. Code 4-13-16.5 25 Ind. Admin. Code 5	6% average weighted goal for state agency contracting, comprising 7% of construction; 4% supplies; and 8% professional services	No revenue cap found

Table 1 (continued)

State	MBE Goal (or SBE Goal)	SBE/MBE Revenue Cap
Maryland	29% statewide MBE goal	<p>Personal net worth (PNW) cap applied to the MBE Program is \$1,771,564 (adjusted annually based on the Consumer Price Index as required by state law)</p> <p>In addition to the cap, firms must meet other eligibility requirements, including size</p>
<p>New Jersey</p> <p>N.J. Admin. Code 17:13-1.2</p> <p>N.J. Admin. Code 17:13-4.1</p>	<p>(25% of state contracting and purchase order dollars to SBEs)</p>	<p>Small businesses must have no more than 100 full-time employees and:</p> <ul style="list-style-type: none"> • for goods and services contracts, gross revenues cannot exceed \$12 million or the applicable federal revenue standards established at 13 C.F.R. 21.201 • for design and construction contracts, gross revenues cannot exceed \$3 million or the applicable annual revenue standards set forth in federal regulation at 13 C.F.R. 21.201 <p>Revenue thresholds do not appear to apply to MBEs</p>
<p>New York</p> <p>New York State Executive Law Article 15-A §§ 310-317;</p> <p>5 NYCRR 140.1</p>	<p>30% state contracting utilization by minority-and-women-owned enterprises (MWBES)</p>	<p>In 2019 Governor Cuomo reauthorized Executive Law Article 15-A, extending the program to December 31, 2024, and increasing the PNW certification cap from \$3.5 million to \$15 million. It also authorizes additional regulations to be established for PNW limits on an industry-by-industry basis</p>
<p>North Carolina</p> <p>N.C. Gen. Stat. § 143-128.2</p>	<p>10% MBE goal for state building projects</p>	<p>No revenue cap found</p>
<p>Ohio</p>	<p>15% set-aside procurement goal for state agencies, boards and commissions</p>	<p>No revenue cap found</p>
<p>Rhode Island</p> <p>R.I. Gen. Laws 37-14.1-1 et seq</p>	<p>Minimum of 10% of the total dollar value of all procurement or construction projects</p>	<p>MBE means a small business concern, as defined pursuant to § 3 of the federal Small Business Act, 15 U.S.C. § 632, and implementing regulations (13 C.F.R. 121)</p>

Table 1 (continued)

State	MBE Goal (or SBE Goal)	SBE/MBE Revenue Cap
South Carolina	No percentage goal specified	Gross sales receipts of the small business cannot exceed \$7.5 million annually averaged over the preceding three-year period and the eligible owner's personal net worth cannot exceed \$1.32 million Revenue thresholds do not appear to apply to MBEs
Tennessee Tenn. Code Ann. § 12-3-1102	No MBE goal specified	Small businesses cannot exceed \$10 million in gross receipts averaged over a three-year period and cannot employ more than 99 persons on a full-time basis Revenue thresholds do not appear to apply to MBEs
Virginia Executive Order 35 (2019) Va. Code § 2.2-1604	No goal specific to MBEs; (42% goals of discretionary spending from SBEs by executive branch agencies and institutions)	Small businesses have 250 or fewer employees or average annual gross receipts of \$10 million or less averaged over the previous three years Revenue thresholds do not appear to apply to MBEs
Washington	No MBE goal specified	MBEs must be a small business based on SBA size standards, which is measured in two ways: <ol style="list-style-type: none"> 1. An overall business size standard of \$23.98 million in gross receipts over a three-year average 2. Size standards according to the businesses' NAICS codes listed in the SBA's size standard tables

Background

Connecticut's Supplier Diversity (a.k.a. Set-Aside) Program

By law, state agencies with a budget of more than \$10,000 and contractors awarded state-financed municipal public works or quasi-public agency contracts must annually set-aside or reserve (1) 25% of the total value of all contracts they let for construction, goods, and services for exclusive bidding by state certified small business enterprises (SBEs) and (2) 25% of that amount (6.25% of the total) for exclusive bidding by small contractors that are certified MBEs (i.e., owned by women, ethnic minorities, or people with disabilities) ([CGS § 4a-60g](#) as amended by [PA 19-117](#)).

Public works contracts awarded by agencies that are valued at \$10,000 or less are exempt from the set-aside provisions. State-funded contracts awarded by municipalities or quasi-public agencies valued at \$50,000 or less are also exempt. The Department of Administrative Services is

responsible for certifying businesses as small and minority-owned businesses. Certification is for a two-year period and is renewable.

The Commission on Human Rights and Opportunities must compile data concerning state contracts with minority-owned business enterprises and annually report to the legislature ([CGS § 46a-56\(a\)\(6\)](#)). According to CHRO's most recent report covering FY 16–FY 18, the state routinely exceeds the goals it sets for procurement from SBEs and MBEs. During the reporting period, state agencies had an average MBE contracting and purchasing goal of \$30,562,348 and spent an average of \$110,753,874.

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