WEST VIRGINIA CODE: §5a-3-59

§5A-3-59. Small, women, and minority-owned businesses.

(a) As used in this section:

(1) "Minority individual" means an individual who is a citizen of the United States or a noncitizen who is in full compliance with United States immigration law and who satisfies one or more of the following definitions:

(A) "African American" means a person having origins in any of the original peoples of Africa and who is regarded as such by the community of which this person claims to be a part.

(B) "Asian American" means a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands, including, but not limited to, Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana, the Philippines, a U.S. territory of the Pacific, India, Pakistan, Bangladesh, or Sri Lanka and who is regarded as such by the community of which this person claims to be a part.

(C) "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who is regarded as such by the community of which this person claims to be a part.

(D) "Native American" means a person having origins in any of the original peoples of North America and who is regarded as such by the community of which this person claims to be a part or who is recognized by a tribal organization.

(2) "Minority-owned business" means a business concern that is at least 51 percent owned by one or more minority individuals or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals and both the management and daily business operations are controlled by one or more minority individuals.

(3) "Small business" means a business, independently owned or operated by one or more persons who are citizens of the United States or noncitizens who are in full compliance with United States immigration law, which, together with affiliates, has 250 or fewer employees, or average annual gross receipts of $10 million or less averaged over the previous three years.

(4) "State agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government. "State agency" does not include any county, city, or town.

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(5) "Women-owned business" means a business concern that is at least 51 percent owned by one or more women who are citizens of the United States or noncitizens who are in full compliance with United States immigration law, or in the case of a corporation, partnership or limited liability company or other entity, at least 51 percent of the equity ownership interest is owned by one or more women who are citizens of the United States or noncitizens who are in full compliance with United States immigration law, and both the management and daily business operations are controlled by one or more women who are citizens of the United States or noncitizens who are in full compliance with United States immigration law.

(b) The Department of Administration shall propose rules for legislative approval pursuant to §29A-3-1 *et seq.* of this code, to implement certification programs for small, women, and minority-owned businesses. These certification programs shall deny certification to vendors from states that deny like certifications to West Virginia-based small, women, or minority-owned businesses or that provide a preference for small, women, or minority-owned businesses based in that state that is not available to West Virginia-based businesses. The rules shall:

(1) Establish minimum requirements for certification of small, women, and minority-owned businesses;

(2) Provide a process for evaluating existing local, state, private sector and federal certification programs that meet the minimum requirements; and

(3) Mandate certification, without any additional paperwork or fee, of any prospective state vendor that has obtained certification under any certification program that is determined to meet the minimum requirements established in the regulations.

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