

PROPOSED REGULATION OF THE OFFICE OF ECONOMIC DEVELOPMENT WITHIN THE OFFICE OF THE GOVERNOR

LCB File No. R102-13

AUTHORITY: 2013 Statutes of Nevada ___ (AB294).

REGULATIONS FOR PROVISIONS RELATING TO ECONOMIC DEVELOPMENT; ESTABLISHMENT OF A LOCAL EMERGING SMALL BUSINESS PROGRAM.

Section 1. Purposes

The 2013 legislature amended Nevada Revised Statutes (NRS) Chapter 231 to encourage the development of small businesses in the state and the participation of local emerging small businesses in certain contracts relating to purchasing and public works, and requiring the Office of Economic Development to establish goals and reporting requirements to ensure accomplishment of the stated goals. The purpose of this regulation is to adopt a standard procedure for the certification of businesses as Local Emerging Small Businesses pursuant to 2013 Statutes of Nevada ___ (AB294).

Section 2. Definitions

As used in these regulations, the following terms shall have the following definitions, unless the context requires otherwise:

“Authorized Representative” has the meaning set forth in NRS 332.025.

“Annual gross receipts” means the total amount of sales for cash and on credit accumulated during a specific accounting period as reported on federal tax returns.

“Contract for a public work” means a written contract between a contractor and a public body for the provision of labor, materials, equipment or supplies for a public work project, pursuant to NRS 338, including contracts with a design professional who is not a member of a design-build team for the provision of services in connection with a public work project.

“Construction services” means any business that provides labor, materials, equipment or supplies for construction or any business that employs design professionals as defined in NRS 338.010 (7).

“Full-time employee” means...

“Full-time equivalent employee” means an employee defined pursuant to the criteria set forth in Section 13 of 2013 Statutes of Nevada ___ (AB294).

“Governing Body” has the meaning set forth in NRS 332.025.

“Local Business” means a business which maintains its principal place of business in the State of Nevada and employs at least one person in this State for the purposes of 2013 Statutes of Nevada ___ (AB294).

“Local Emerging Small Business” means a business that has been certified by the Office as a Local Emerging Small Business pursuant to this regulation.

“Office” means the Office of Economic Development within the Office of the Governor which was created to coordinate and oversee economic development programs in this State pursuant to Nevada Revised Statutes Chapter 231.

“Operated for a profit” means the normal business operations are intended to earn a profit and the firm does not qualify for nonprofit status.

“Principal place of business” means the address identified as the contractor’s place of business on the contractor’s current Nevada business license.

“Sales of goods” has the meaning set forth in NRS 104.2105.

“Solicited to submit” means invited to participate in the bid or proposal process for a local purchasing contract, state purchasing contract or contract for a public work.

“Tier 1 business” means a business certified pursuant to paragraph 11(2) of 2013 Statutes of Nevada ___ .

“Tier 2 business” means a business certified pursuant to paragraph 11(3) of 2013 Statutes of Nevada ___ .

Section 3. Application Procedures

- 1. The Office shall certify a qualified business as a Local Emerging Small Business and administer the program established by 2013 Statutes of Nevada ___ (AB294).*
- 2. To obtain certification as a Local Emerging Small Business, a business must:*
 - a. Submit an application to the Office on a form prescribed and provided by the Office; and*
 - b. Affirm in writing on the application and include with the application documentation as required on the application evidencing that the business qualifies under the requirements of 2013 Statutes of Nevada ___ (AB294) Section 11, including but not limited to, the following requirements:*
 - i. Be in existence, operational, and operating for a profit,*
 - ii. Maintain its principal place of business in this State,*
 - iii. Be in compliance with all applicable licensing and registration requirements,*

- iv. *Not be a subsidiary or parent company belonging to a group of firms that are owned or controlled by the same persons if, in the aggregate, the group of firms does not qualify pursuant to program requirements, and*
 - v. *Is qualified as either a tier 1 or tier 2 Local Emerging Small Business.*
 - c. *Submit the completed application form, together with all required supporting documentation identified on the application form, utilizing the Office's online Internet website application process; or, submit the application by mail or in person to the address provided on the application form.*
3. *Upon receipt of a completed application, the Office will conduct a review for qualification. The Office will make its determination based upon the eligibility standards included in this regulation and the requirements of 2013 Statutes of Nevada ___ (AB294).*
 4. *The Office shall provide each applicant with written notification of its determination of qualification. In the event that the Office determines the applicant is qualified, the Office will provide the applicant with a written notice of certification as a Local Emerging Small Business.*
 5. *Failure of a business to disclose information in the application, or the submission of a materially incomplete application, may be grounds for a delay in the certification of the business, or for denial of the certification.*
 6. *Submission of a falsified application may subject the applicant to civil and criminal liabilities.*

Section 4. Revocation

The Office may revoke the certification of a Local Emerging Small Business at any time if it determines that the business does not meet the applicable standards applied by the Office, and may conduct its own investigations to determine whether revocation is warranted.

Section 5. Ongoing Notification Requirements

It is the responsibility of the applicant to ensure the Office has a current business address, email address, and phone number. The Local Emerging Small Business shall notify the Office of any changes in the information provided in its application that may affect its continued eligibility. Failure to provide such notification to the Office may result in revocation of the certification.

Section 6. Term of Certification

Certification as a Local Emerging Small Businesses is valid until the last day of the month a full 24 months following the date of certification. For example, written notice of certification issued on January 4, 2014 will be valid until January 31, 2016.

Section 7. Re-Certification

- 1. Re-certification is not automatic.*
- 2. The Office will send to each certified Local Emerging Small Business a re-certification notice and affidavit at least 60 days prior to expiration of its current certification.*
- 3. In order to be re-certified, the business shall submit a re-certification affidavit on the form prescribed by the Office, together with all required supporting documentation at least 10 days prior to the expiration date of the current certification, utilizing the Office's online Internet website re-certification process, or submit the re-certification affidavit by mail or in person to the address identified on the re-certification affidavit.*
- 4. Certification will remain valid until the Office makes its determination regarding the re-certification affidavit.*
- 5. Failure to comply with the re-certification requirements may result in a delay of re-certification or in an expiration of the certification.*

Section 8. Complaints regarding Alleged Improper Certification

- 1. Any individual, firm or agency who believes that a business certified as a Local Emerging Small Business does not qualify under the standards of eligibility for certification may file a complaint with the Office.*
- 2. Following the receipt of a complaint, the Office will investigate.*
- 3. The Executive Director shall assign a panel of three individuals, who may not be employees of the Office, to review the materials obtained during the investigation and make a determination of qualification as a Local Emerging Small Business.*
- 4. Following determination of qualification, the Office shall issue written notification to the affected Local Emerging Small Business and the complainant.*

Section 9. Establishment and Encouragement of Goals

The Office shall meet with authorized representatives from the State Purchasing Division, State Public Works Division and governing bodies in a county whose population is 100,000 or more to receive input and provide advice regarding Local Emerging Small Business participation goals.