

How NOT To Get Certified As a Woman or Minority Owned Business

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I receive a lot of questions about Disadvantaged Business Enterprise (DBE), Women's Business Enterprise (WBE) and/or Minority Business Enterprise (MBE) certifications and how a business can get certified. One of the questions that I most often receive from people unfamiliar with the process are from non-minority male business owners who ask "can't I just give my wife 51% ownership in the business?" The short is no, it is not that simple.

Whether you are trying to get DBE, WBE or MBE certification, the analysis is much more involved that just does a woman or minority own 51% or more of the business.

For all certifications, the woman or minority owner has to show that not only that they own a controlling share of the business, but that they actually *control* the business and have the required knowledge to run it. So giving 51% to your wife while you are the one actually running the business will not work. The certification process involves an on-site visit where the woman or minority owner will be interviewed to ensure that they has the knowledge required to run the business, and that they actually control the business. Many businesses are denied certification as a result of the woman or minority not being demonstrate adequate knowledge of the business during the on-site visit.

Even if the woman or minority runs the office side of the business (accounting, HR, etc.), if they cannot demonstrate knowledge and experience of what the company does and how it does it (for example- a manufacturing company), they will likely be denied certification. This can be frustrating and feel unfair, because these office activities are the backbone of the business. However, DBE certification in particular will not likely be granted if this is the case.

Also, if you just give ownership to a woman or minority, without them paying anything of value (or paying significantly less than the value) for those shares, that will also raise questions and may bar certification.

In order to have the best chance for success in obtaining one of these certifications, a company should make sure that it meets all of the requirements before submitting their application. Once an application is denied, you may have to wait a year to reapply.

Working with an attorney familiar with the process can help increase your chances of obtaining certification. I assist my clients with the certification process in a number of ways:

- I offer an initial consultation regarding the certification process at a discounted flat rate. This is a way to explore the certification process and what it will take to obtain certification for your business in a low-cost way.
- I review your corporate documents to ensure that they will support your company's position that a woman or minority controls the business (issues arising out of corporate documents during the certification process will be the subject of a future blog post).
- I review the application and supporting materials prior to certification and identify potential issues before submission.
- I prepare my clients for the on-site visits (and can attend the on-site visits if the client wishes).
- If your certification application is denied for any reason, I can assist you with making a decision whether or not to appeal, and can represent you in the appeal.

If you have any questions or are exploring DBE/WBE/MBE certifications, please feel free to contact the firm.