

1. New Definitions

Domicile means the place of a person's true, fixed, permanent home, without any present intention of completely abandoning that home, and to which the person has the intention of returning whenever absent. **Domicile** does not include a temporary dwelling unless there is a present intention to abandon permanently or indefinitely the former domicile.

County-based business means a business whose principal place of operation is located within Prince George's County, *that meets the requirements of Section 10A-161(a), and whose application for certification as a County-based business is approved by the Purchasing Agent.* Principal place of operation shall be determined by factors as set forth in the regulations.

Sec. 10A-161. County-based business certification requirements.

(a) A business that seeks to be certified as a County-based business shall make application to the Purchasing Agent on a form provided by the Purchasing Agent. Such an application shall not be approved by the Purchasing Agent unless the business:

(1) Requires that its chief executive officer and the highest level managerial employees of the business maintain their offices and perform their managerial functions in the County;

(2) Files a written certificate that the business is not delinquent in the payment of any County taxes, charges, fees, rents or claims;

(3) Files a tax return filed with the State of Maryland establishing that the business has operated within the County within the preceding twelve (12) months;

(4) Files documentation showing that during the preceding twelve (12) months the business has continuously maintained a valid business license or permit;

(5) Files documentation showing that during the preceding twelve (12) months the business has continuously occupied an office within the County, as its principal place of operation; and

(6) Files documentation showing that:

(i) More than fifty percent (50%) of the business' full-time employees are County residents; or

(ii) The owners of more than fifty percent (50%) of the business are County residents; or

(iii) More than (fifty percent) 50% of the assets of the business, excluding bank accounts, are located in the County; or

(iv) More than (fifty percent) 50% of the total sales or other revenues of the business are derived from transactions of the business in the County.

(b) A business that seeks to be certified as a County-based small business shall make an application to the Purchasing Agent on a form provided by the Purchasing Agent. Such an application shall not be approved by the Purchasing Agent unless:

(1) The business meets the requirements of Section 10A-161(a); and

(2) The business meets the definition of "small business" pursuant to the Code of Maryland Regulations ("COMAR") 21.01.02.01(80); or

(3) For a business classified as being in the construction industry by Sector 23 of the current edition of the NAICS, the business meets the federal definition of "small business concern" in Part 121 of Title 13 of the Code of Federal Regulations.

(c) Once an application for certification is approved under this Section by the Purchasing Agent, a copy of the approved application shall be expeditiously transmitted to the County Auditor.

(d) A business whose application is approved for certification as a County-based small business is automatically certified as a County-based business.

(e) Nonprofit entities that satisfy the applicable requirements of this Section are eligible to be certified as County-based businesses and County-based small businesses.

(f) A business that is certified as a County-based business or County-based small business shall meet the requirements of certification under this Section continuously after the date the business's application for certification is approved by the Purchasing Agent or the business's certification shall be void. In such instances, the business must re-apply pursuant to the requirements of this Section to be certified as a County-based business or a County-based small business.

COMAR 21.01.02.01(80)

(80) "Small business" means a business, other than a broker, which meets the following criteria:

(a) It is independently owned and operated;

(b) It is not a subsidiary of another firm;

(c) It is not dominant in its field of operation;

(d) Its wholesale operations did not employ more than 50 persons, and its gross sales did not exceed an average of \$4,000,000 in its most recently completed 3 fiscal years;

(e) Its retail operations did not employ more than 25 persons and its gross sales did not exceed an average of \$3,000,000 in its most recently completed 3 fiscal years;

(f) Its manufacturing operations did not employ more than 100 persons, and its gross sales did not exceed an average of \$2,000,000 in its most recently completed 3 fiscal years;

(g) Its service operations did not employ more than 100 persons, and its gross sales did not exceed an average of \$10,000,000 in its most recently completed 3 fiscal years;

(h) Its construction operations did not employ more than 50 persons, and its gross sales did not exceed an average of \$7,000,000 in its most recently completed 3 fiscal years; and

(i) Its architectural and engineering services did not employ more than 100 persons, and its gross sales did not exceed an average of \$4,500,000 in its most recently completed 3 fiscal years.

*(13.1) **County-based business preference** means a business preference given to a bid or proposal pursuant to Section 10A-158.*

*(13.2) **County-based small business** means a business that meets the requirements of Section 10A-161(b) and whose application for certification as a County-based small business is approved by the Purchasing Agent.*

(b) A business that seeks to be certified as a County-based small business shall make an application to the Purchasing Agent on a form provided by the Purchasing Agent. Such an application shall not be approved by the Purchasing Agent unless:

- (1) The business meets the requirements of Section 10A-161(a); and
- (2) The business meets the definition of “small business” pursuant to the Code of Maryland Regulations (“COMAR”) 21.01.02.01(80); or
- (3) For a business classified as being in the construction industry by Sector 23 of the current edition of the NAICS, the business meets the federal definition of “small business concern” in Part 121 of Title 13 of the Code of Federal Regulations.

*(13.3) **County or The County** means Prince George’s County, Maryland.*

*(13.4) **County agency** means any department, office, division, administrative unit, or agency of the Prince George’s County government or any other entity created or authorized to be created, whether expressed or implied, by the Charter or the Code, including any council, board, bureau,*

commission, institution, tribunal, government corporation, public authority, or other instrumentality thereof or thereunder.

Disadvantaged business means a for-profit small business concern: (A) that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and (B) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Small business concern means a small business concern as defined pursuant to Section 3 of the Small Business Act and United States Small Business Administration regulations implementing it at 13 CFR Part 12.1, that also does not exceed the cap on average annual gross receipts specified in United States Department of Transportation Regulations 49 at CFR 26.65(b).

Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is—

(A) Any individual who the Purchasing Agent finds to be a socially and economically disadvantaged individual on a case-by-case basis.

(B) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

(C) “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa;

(D) “Hispanic Americans,” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(E) “Native Americans,” which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

(F) “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong; (CB-43-2011)

(G) “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(H) Women;

(I) Any additional groups whose members are designated as socially and economically disadvantaged by the United States Small Business Administration, at such time as the United States Small Business Administration designation becomes effective.

(CB-28-2007; CB-43-2011)