

4. RECOGNITION OF THE BUSINESS AS A SEPARATE ENTITY FOR TAX OR CORPORATE PURPOSES IS NOT NECESSARILY SUFFICIENT FOR RECOGNITION AS A MINORITY BUSINESS ENTERPRISE.

5. IN DETERMINING WHETHER A POTENTIAL MINORITY BUSINESS ENTERPRISE IS AN INDEPENDENT BUSINESS, THE ~~STATE CERTIFICATION~~ CERTIFYING AGENCY SHALL CONSIDER ALL RELEVANT FACTORS, INCLUDING:

A. THE DATE THE BUSINESS WAS ESTABLISHED;

B. THE ADEQUACY OF ITS RESOURCES FOR THE WORK OF THE CONTRACT; AND

C. THE DEGREE TO WHICH FINANCIAL, EQUIPMENT LEASING, AND OTHER RELATIONSHIPS WITH NONMINORITY BUSINESSES VARY FROM INDUSTRY PRACTICE.

(IV) 1. THE MINORITY OWNERS ALSO SHALL POSSESS THE POWER TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT AND POLICIES OF THE BUSINESS AND TO MAKE THE DAY-TO-DAY AS WELL AS MAJOR DECISIONS ON MATTERS OF MANAGEMENT, POLICY, AND OPERATIONS.

2. THE BUSINESS MAY NOT BE SUBJECT TO ANY FORMAL OR INFORMAL RESTRICTIONS, THROUGH BYLAW PROVISIONS, PARTNERSHIP AGREEMENTS, OR CHARTER REQUIREMENTS FOR CUMULATIVE VOTING RIGHTS OR OTHERWISE THAT PREVENT THE MINORITY OWNERS, WITHOUT THE COOPERATION OR VOTE OF ANY OWNER WHO IS NOT A MINORITY, FROM MAKING A BUSINESS DECISION OF THE BUSINESS.

(V) 1. IF THE OWNERS OF THE BUSINESS WHO ARE NOT MINORITIES ARE DISPROPORTIONATELY RESPONSIBLE FOR THE OPERATION OF THE FIRM, THE FIRM IS NOT CONTROLLED BY MINORITIES AND MAY NOT BE CONSIDERED A MINORITY BUSINESS ENTERPRISE WITHIN THE MEANING OF THIS SECTION.

2. WHERE THE ACTUAL MANAGEMENT OF THE BUSINESS IS CONTRACTED OUT TO INDIVIDUALS OTHER THAN THE OWNER, THOSE PERSONS WHO HAVE THE ULTIMATE POWER TO HIRE AND FIRE THE MANAGERS MAY, FOR THE PURPOSES OF THIS SUBSECTION, BE CONSIDERED AS CONTROLLING THE BUSINESS.