

MONTGOMERY COUNTY CODE

Definition of Minority Women or Handicapped-Owned Business

1. Section 11 B-58C of the Montgomery County Code defines (1) "minority person" as a member of a socially or economically disadvantaged group, which for purposes of this section includes African Americans, Hispanics, Native Americans, Asian Americans, Women, and persons with a physical or mental disability. (2) "minority business" as any legal entity, other than a joint venture, organized to engage in commercial transactions which is at least 51 percent owned and controlled by one or more minority persons, or a nonprofit entity organized to promote the interests of persons who have a handicap, as that term is defined in Section 27-6 A of the Code.
2. The State of Maryland through administrative procedures states that ownership and control are defined as follows:
 - a. "Ownership"
 - 1) For a "sole proprietorship" to be deemed a minority business enterprise, at least 51 percent of the partnership's assets or interests must be owned by a minority person or minority persons. For a "corporation" to be considered a minority business enterprise, legal and equitable ownership of at least 51 percent of all classes of stock, bonds and other securities issued by the corporation must be owned by a minority person or minority persons.
 - 2) For purposes of this definition, any ownership interest held by a minority person which is subject to an option or security interest held by a non-minority person or business entity affecting the incidents of operation and control or sharing in the profits of the enterprise shall not qualify as being an interest held by such minority person.
 - b. "Control"

This term requires that the primary power, direct or indirect, to influence the management of a business enterprise shall rest with minority persons. In addition, this term shall be construed to mean that the business enterprise is not subject to any formal or informal restrictions by lease, loan agreement, or otherwise which would limit the customary discretion of the proprietor, partners, shareholders, directors, or officers. In addition, the term "control" shall be construed to mean that there are no restrictions in any partnership agreements, bylaws, or corporate charter, including any provision for cumulative voting, which prevent the minority person, partners or stockbrokers, without the cooperation or vote of any non-minority person, partner or stockholders, from abrogating a business decision of the enterprise.