

## CHAPTER 44 - OFFICE FOR HISTORICALLY UNDERUTILIZED BUSINESSES

### SUBCHAPTER 44A – STATEWIDE UNIFORM CERTIFICATION

#### SECTION .0100 - GENERAL PROVISIONS

##### 01 NCAC 44A .0101 SCOPE

The rules in this Subchapter are used to determine if a business is a historically underutilized business in accordance with G.S. 143-128.4.

*History Note:* Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;  
Amended Eff. May 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

##### 01 NCAC 44A .0102 DEFINITIONS

As used in this Subchapter, the following terms have the following definitions:

- (1) "HUB" means Historically Underutilized Business.
- (2) "HUB Certification" means the determination of a vendor's eligibility as a HUB.
- (3) "HUB Office" means the Department of Administration's Office for Historically Underutilized Businesses.
- (4) "IRS" means the United States Internal Revenue Service.
- (5) "Person" means a natural person, and does not include a corporation or other business entity.

*History Note:* Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

#### SECTION .0200 - HUB CERTIFICATION APPLICATION

##### 01 NCAC 44A .0201 APPLICATION

A business shall complete the following steps to initiate an application for certification:

- (1) The business shall complete an application using the Vendor Link NC system <http://www.ips.state.nc.us/ips/Vendor/vndrtips.asp>;
- (2) The business shall complete, sign and attest to the information submitted online in the Vendor Link NC system; and
- (3) The application is not complete until an Affidavit for Certification is received by the HUB Office.

*History Note:* Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

##### 01 NCAC 44A .0202 DOCUMENTATION

- (a) HUB staff shall request documentation to establish the ownership, management, and control of daily business operations of the business pursuant to Rule .0301 this Subchapter.
- (b) If the documentation provided by the business does not demonstrate ownership, management and control of daily business operations by the business, HUB Office staff shall conduct a site visit.
- (c) The HUB Office shall not consider organizational changes made to the business during the eligibility determination process.

*History Note:* Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

**01 NCAC 44A .0203 APPROVAL**

- (a) The HUB Office shall grant HUB Certification if the business meets the definition of minority business found at G.S. 143-128.4(a1) and 143-128.2(g).
- (b) The business shall log on to the Vendor Link system at least once during each 12 month period.

*History Note: Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

**01 NCAC 44A .0204 DURATION OF CERTIFICATION**

Certification remains in effect for four years unless there is a change in the business ownership, management or control of daily business operations that affects the HUB Certification status.

*History Note: Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;  
Amended Eff. June 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

**01 NCAC 44A .0205 CHANGES IN OWNERSHIP OR MANAGEMENT AND CONTROL**

HUB vendors shall notify the HUB Office in writing of any changes in the ownership or the management and control of daily business operations of their companies within 30 days of the changes.

*History Note: Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

**01 NCAC 44A .0206 DENIAL**

- (a) The HUB Office shall deny HUB Certification if the business does not meet the definition of minority business found at G.S. 143-128.2(g)(1) or 143-128.4
- (b) The HUB office shall notify the business in writing when the application is denied.
- (c) The business may reapply for HUB Certification no earlier than 12 months from the date of denial.
- (d) Vendors who are denied HUB Certification have a right to review pursuant to Section .0600 of this Subchapter.

*History Note: Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;  
Amended Eff. May 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

**01 NCAC 44A .0207 RENEWAL**

- (a) To renew HUB certification the HUB shall attest that there have been no changes in the ownership or the management and control of daily business operations of the business entity since the last certification or renewal.
- (b) If there has been a change in the ownership or the management and control of daily business operations of the business entity, the HUB shall submit documentation detailing the change(s) within 30 days of the change.
- (c) In the on-line Vendor Link system, HUB status is "Inactive" if the vendor fails to update or submit necessary documentation.

*History Note: Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

#### **01 NCAC 44A .0208      INACTIVITY**

The Vendor Link system automatically removes those vendor profiles that have been inactive for 12 months.

*History Note:      Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

### **SECTION .0300 - DOCUMENTATION**

#### **01 NCAC 44A .0301      REQUIRED DOCUMENTATION**

The Office for Historically Underutilized Businesses shall request the following documentation based on the business structure of the applicant, to determine that the applicant's ownership, management and control of daily business operations are consistent with the eligibility requirements as provided in G.S. 143.48.4 and 143-128.4:

- (1) All Applicants:
  - (a) Work experience resumes for all owners that include places of ownership/employment with corresponding dates;
  - (b) Proof of citizenship or Permanent Residence (Birth Certificate, Passport, Voter's Registration Card, Green Card, Military ID, or Driver's License);
  - (c) Proof of Ethnicity (Passport, Green Card, Birth Certificate);
  - (d) Copies of Professional Licenses, if required;
  - (e) Schedule of Salaries paid to all officers, managers, owners, or directors of the firm;
  - (f) Copies of signed leases for office and storage space;
  - (g) List of equipment (leased or owned) along with signed lease agreements, titles/proof of ownership of equipment needed to operate the business;
  - (h) Documented proof of contributions used to acquire ownership for each owner;
  - (i) Statement prepared and signed by banking institution listing names of all persons who have signature authority for the business account;
  - (j) Two letters of reference (with contact information, nature and duration of relationship; and
  - (k) Home state certification for out of state businesses, if applicable;
- (2) Corporation or LLC or Franchise:
  - (a) All documentation requested in Item (1) of this Rule;
  - (b) Official Articles of Incorporation (signed by State official if incorporated);
  - (c) Both sides of all Corporate Certificates and Stock if incorporated;
  - (d) Assumed Name Certificate if applicable;
  - (e) Transfer ledger;
  - (f) Shareholders Agreement;
  - (g) Minutes of first and most recent stockholder and Board of Directors meetings;
  - (h) Corporate bylaws and any amendments if incorporated;
  - (i) Articles of Organization (LLC);
  - (j) Operating Agreement (LLC); and
  - (k) Franchise Agreement (Franchise); and
- (3) Partnership or Joint Venture:
  - (a) All documentation requested in Item (1) of this Rule;
  - (b) Partnership Agreement if a partnership;
  - (c) Joint Venture Agreement if a joint venture.

The HUB Office shall take all necessary steps to safeguard information requested in compliance with State and federal law, including G.S. 14-113.2; 14-113.8(6); 132-1.2; and 132-1.10.

*History Note:      Authority G.S. 143-48.4; 143-128.4;  
Eff. June 1, 2008;  
Amended Eff. June 1, 2009;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

## **SECTION .0400 - THIRD PARTY CHALLENGE**

### **01 NCAC 44A .0401 CHALLENGE INITIATION**

A third party may challenge, by notarized affidavit, the HUB Certification of any business. The challenge shall include reasons or evidence for the challenge.

*History Note: Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;  
Amended Eff. May 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

### **01 NCAC 44A .0402 HUB OFFICE INVESTIGATION**

Once a challenge has been initiated, the HUB Office shall investigate by requesting additional data and conducting an on-site review at the business location.

*History Note: Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

### **01 NCAC 44A .0403 DETERMINATION**

The HUB Office shall notify the challenger and HUB in writing of the outcome of the investigation.

*History Note: Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

### **01 NCAC 44A .0404 HUB STATUS DURING CHALLENGE**

The HUB Certification status shall remain in effect during the challenge process.

*History Note: Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;  
Amended Eff. May 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

## **SECTION .0500 - REVOCATION OF HUB CERTIFICATION**

### **01 NCAC 44A .0501 REASONS FOR REVOCATION**

The HUB Office shall revoke the HUB Certification for any of the following reason(s):

- (1) Firm's owner failed to cooperate with the Program's request for information;
- (2) Firm's owner falsified a sworn statement;
- (3) Firm no longer meets ownership eligibility standards;
- (4) Firm no longer meets control and daily management eligibility standards;
- (5) Firm is no longer owned by a qualifying individual;
- (6) Decertification requested by firm's owner;
- (7) Change in certification standards or requirements that render the firm ineligible;
- (8) Initial certification decision was based on erroneous information;
- (9) Information or evidence was not available at initial certification;
- (10) Information was misrepresented or concealed by firm during initial certification; or
- (11) The business is ineligible to contract with the State of North Carolina pursuant to G.S. 143-59.2.

*History Note:* Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;  
Amended Eff. May 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

#### **01 NCAC 44A .0502 NOTICE**

- (a) The HUB Office shall notify the business in writing by certified mail of the decision to revoke HUB Certification and shall state the reason(s) for revocation.
- (b) The HUB Office shall advise the HUB of its right to a review and give the business 15 business days in which to exercise this right.
- (c) If no review is requested, revocation of the HUB's status shall be enforced.
- (d) The vendor may reapply for HUB Certification no earlier than 12 months from the date of the revocation notice.

*History Note:* Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;  
Amended Eff. May 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

### **SECTION .0600 - REVIEW**

#### **01 NCAC 44A .0601 REVIEW**

To exercise a right of review, a review request shall be made in writing and addressed to the HUB Office Director within 15 business days of the date of the denial or revocation notice.

*History Note:* Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;  
Amended Eff. May 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

#### **01 NCAC 44A .0602 CONTENTS**

The review request shall state the specific reason(s) why the denial or revocation was improper based on the HUB eligibility requirements and the documentation submitted.

*History Note:* Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

#### **01 NCAC 44A .0603 CRITERIA**

The HUB Director shall consider and base the decision on the eligibility requirements.

*History Note:* Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

#### **01 NCAC 44A .0604 DECISION**

The HUB Director shall render a written decision within 45 business days of receipt of the request.

*History Note:* Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

**01 NCAC 44A .0605      STATUS PENDING REVIEW**

The HUB Certification status remains in effect pending a review.

*History Note:      Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;  
Amended Eff. May 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

**01 NCAC 44A .0606      APPEAL**

The business may file a contested case with the Office of Administrative Hearings pursuant to G.S. 150B-23 if it is not satisfied with the decision of the Director.

*History Note:      Authority G.S. 143-48.4; 143-128.4;  
Eff. March 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*