

ARTICLE 3. MINORITY AND WOMEN'S BUSINESS ENTERPRISES

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Rule 1. General Provisions

68 IAC 3-1-1	Statement of policy; general provisions
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68 IAC 3-1-1 Statement of policy; general provisions

Authority: [IC 4-33-4](#); [IC 4-33-14-10](#); [IC 4-35-4](#); [IC 4-35-11-10](#)
Affected: [IC 4-13-16.5](#); [IC 4-33-14-5](#); [IC 4-35-11](#)

Sec. 1. (a) It is the policy of the commission to ensure the following:

- (1) That casino licensees conduct all aspects of their operation in compliance with [IC 4-33-14-5](#) and [IC 4-35-11](#).
- (2) That casino licensees:
 - (A) establish internal procedures and controls; and
 - (B) provide reports;

as the commission finds are necessary to ensure such compliance.

(b) The department of administration, minority business development:

- (1) shall perform certifications and compile a list of certified enterprises for the commission in accordance with this rule; and
- (2) may assist the commission in determining compliance with the Acts and this article.

(c) This rule is applicable to all nonexempt goods or services purchased by or for the benefit or use of a casino licensee.

(Indiana Gaming Commission; 68 IAC 3-1-1; filed Apr 19, 1996, 3:00 p.m.: 19 IR 2248; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#); readopted filed Nov 24, 2014, 10:49 a.m.: [20141224-IR-068140402RFA](#); readopted filed Nov 24, 2020, 2:41 p.m.: [20201223-IR-068200446RFA](#))

68 IAC 3-1-2 Definitions applicable to article

Authority: [IC 4-33-4](#); [IC 4-33-14-10](#); [IC 4-35-4](#); [IC 4-35-11-10](#)
Affected: [IC 4-13-16.5](#); [IC 4-33-14-5](#); [IC 4-35-11-6](#)

Sec. 2. The following definitions apply throughout this article:

- (1) "Broker" means a business entity serving as an intermediary who negotiates contracts of purchase and sale, without assuming any risk of loss.
- (2) "Casino licensee" means any riverboat licensee, operating agent, or gambling game licensee under [IC 4-35](#).
- (3) "Contract for goods or services, or both" means any consensual obligation, written or oral, executory or executed, between a casino licensee and another party related to the acquisition of, by lease, purchase, or other form, any goods or services. As used in this subdivision, "goods and services" does not include those items excluded from the term under [IC 4-33-14-5\(a\)](#) or [IC 4-35-11-6\(a\)](#).
- (4) "Contracting representative" means a contractor or a subcontractor whose participation in the substance of the contract is equivalent to less than twenty percent (20%) of the value of the contract.
- (5) "Contractor" means a person, other than a casino licensee, who is a party to a contract for goods or services with a casino licensee.
- (6) "Established goals" means the annual goals adopted from time to time by the commission resulting from a statistical analysis of utilization study conducted under [IC 4-33-14-5\(b\)](#) and [IC 4-35-11-6\(b\)](#).
- (7) "Owned and controlled" means having all of the following:
 - (A) Ownership of at least fifty-one percent (51%) of the enterprise, including corporate stock of a corporation.
 - (B) Control over the management and active in the day-to-day operations of the business.
 - (C) An interest in the capital, assets, and profits and losses of the business proportionate to the percentage of ownership.

(8) "Participation plan" means an obligation imposed by a casino licensee as part of its purchase with a vendor utilizing certified minority or women's business enterprises for a specified minimum percentage of the value of the purchase.

(9) "Subcontractor" means a person with a contractual relationship with a:

(A) contractor who requires the performance of activity that is directly traceable to fulfillment of the contractor's obligation to a casino licensee; or

(B) subcontractor that calls for performance of activity that is directly traceable through second tier subcontractors to fulfillment of a contractual obligation with a casino licensee.

The term does not include a person who subcontracts a significant portion of the activity to the contractor, a higher tier subcontractor, an affiliate of the contractor, or an affiliate of a higher tier subcontractor.

(Indiana Gaming Commission; 68 IAC 3-1-2; filed Apr 19, 1996, 3:00 p.m.: 19 IR 2248; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#); readopted filed Nov 24, 2014, 10:49 a.m.: [20141224-IR-068140402RFA](#); readopted filed Nov 24, 2020, 2:41 p.m.: [20201223-IR-068200446RFA](#))

68 IAC 3-1-3 List

Authority: [IC 4-33-4](#); [IC 4-33-14-10](#); [IC 4-35-4](#); [IC 4-35-11-10](#)

Affected: [IC 4-13-16.5](#); [IC 4-33](#); [IC 4-35](#)

Sec. 3. The department of administration, minority business development shall compile a list of the minority and women's business enterprises that are certified under this rule. The list shall be made available to all casino licensees. *(Indiana Gaming Commission; 68 IAC 3-1-3; filed Apr 19, 1996, 3:00 p.m.: 19 IR 2249; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#); readopted filed Nov 24, 2014, 10:49 a.m.: [20141224-IR-068140402RFA](#); readopted filed Nov 24, 2020, 2:41 p.m.: [20201223-IR-068200446RFA](#))*

Rule 2. Certification Process and Procedure

[68 IAC 3-2-1](#)

Certification

[68 IAC 3-2-2](#)

Eligibility guidelines

[68 IAC 3-2-3](#)

Hearings

68 IAC 3-2-1 Certification

Authority: [IC 4-33-4](#); [IC 4-33-14-10](#); [IC 4-35-4](#); [IC 4-35-11-10](#)

Affected: [IC 4-13-16.5](#); [IC 4-33](#); [IC 4-35](#)

Sec. 1. (a) The department of administration, minority business development shall certify that an enterprise is a minority business enterprise or a women's business enterprise, or both.

(b) To be certified, a minority or women's business enterprise must comply with all of the requirements of the department of administration, minority business development under:

(1) [IC 4-13-16.5](#);

(2) 25 IAC 5;

(3) the Acts; and

(4) this title.

(Indiana Gaming Commission; 68 IAC 3-2-1; filed Apr 19, 1996, 3:00 p.m.: 19 IR 2249; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#); readopted filed Nov 24, 2014, 10:49 a.m.: [20141224-IR-068140402RFA](#); readopted filed Nov 24, 2020, 2:41 p.m.: [20201223-IR-068200446RFA](#))

68 IAC 3-2-2 Eligibility guidelines

Authority: [IC 4-33-4](#); [IC 4-33-14-10](#); [IC 4-35](#); [IC 4-35-11-10](#)

Affected: [IC 4-13-16.5](#); [IC 4-33](#); [IC 4-35](#)

Sec. 2. The guidelines for determining eligibility set forth in 25 IAC 5 shall be utilized by department of administration, minority business development to determine eligibility for the Acts and this title. *(Indiana Gaming Commission; 68 IAC 3-2-2; filed*

Apr 19, 1996, 3:00 p.m.: 19 IR 2249; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#); readopted filed Nov 24, 2014, 10:49 a.m.: [20141224-IR-068140402RFA](#); readopted filed Nov 24, 2020, 2:41 p.m.: [20201223-IR-068200446RFA](#))

68 IAC 3-2-3 Hearings

Authority: [IC 4-33-4](#); [IC 4-33-14-10](#); [IC 4-35-4](#); [IC 4-35-11-10](#)
Affected: [IC 4-13-16.5](#); [IC 4-33](#); [IC 4-35](#)

Sec. 3. A person who has been denied certification as a minority or women's business enterprise may petition the department of administration to conduct a hearing following the procedures established in 25 IAC 5. (*Indiana Gaming Commission; 68 IAC 3-2-3; filed Apr 19, 1996, 3:00 p.m.: 19 IR 2249; filed Jan 30, 1998, 11:00 a.m.: 21 IR 2061; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#); readopted filed Nov 24, 2014, 10:49 a.m.: [20141224-IR-068140402RFA](#); readopted filed Nov 24, 2020, 2:41 p.m.: [20201223-IR-068200446RFA](#))*

Rule 3. Compliance

68 IAC 3-3-1	Procedures for subcontractors and participation plans
68 IAC 3-3-2	Effect of certification
68 IAC 3-3-3	Dual certified enterprises
68 IAC 3-3-4	Purpose
68 IAC 3-3-5	Goal achievement
68 IAC 3-3-6	Reporting purchases with minority and women's business enterprises
68 IAC 3-3-7	Compliance monitoring and certification
68 IAC 3-3-8	Failure to attain goals
68 IAC 3-3-9	Required notification
68 IAC 3-3-10	Good faith effort
68 IAC 3-3-11	Deviations from provisions (Repealed)

68 IAC 3-3-1 Procedures for subcontractors and participation plans

Authority: [IC 4-33-4](#); [IC 4-33-14-10](#); [IC 4-35-4](#); [IC 4-35-11-10](#)
Affected: [IC 4-13-16.5](#); [IC 4-33-14](#); [IC 4-35-11](#)

Sec. 1. With the exception of 25 IAC 5-6-4(a)(1)(E), when a casino licensee enters into a transaction for goods or services that utilizes a subcontractor or a participation plan, the procedure set forth in 25 IAC 5-6-4 shall be utilized by the commission to determine whether or not a portion of the purchase value shall be counted toward the established goals. The commission may request that the department of administration, minority business development assist the commission in determining that the casino licensee complies with [IC 4-33-14](#), [IC 4-35-11](#), and this title. (*Indiana Gaming Commission; 68 IAC 3-3-1; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3035; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#); readopted filed Nov 24, 2014, 10:49 a.m.: [20141224-IR-068140402RFA](#); readopted filed Nov 24, 2020, 2:41 p.m.: [20201223-IR-068200446RFA](#))*

68 IAC 3-3-2 Effect of certification

Authority: [IC 4-33-4](#); [IC 4-33-14-10](#); [IC 4-35-4](#); [IC 4-35-11-10](#)
Affected: [IC 4-13-16.5](#); [IC 4-33](#); [IC 4-35](#)

Sec. 2. (a) Except as provided in subsection (c), a certification issued under this title may be relied upon by a casino licensee to establish the eligibility of the certified enterprise to be considered as a minority or women's business enterprise for the purpose of attaining the casino licensee's established goals.

(b) A casino licensee shall advise the executive director, in writing, if it has reason to believe that one (1) or more of the following situations exist:

(1) That a certified minority or women's business enterprise is not qualified as such under:

- (A) the Acts;
- (B) this rule;
- (C) [IC 4-13-16.5](#); or
- (D) 25 IAC 5.

(2) That the minority or women's business enterprise submitted false or misleading information to support its application for certification.

(3) That the participation of the certified minority or women's business enterprise in any transaction with the casino licensee is without economic substance.

(c) A casino licensee may not rely upon a certification issued under the Acts and this title for purposes of attaining the established goals if the casino licensee has the knowledge set forth in subsection (b). (*Indiana Gaming Commission; 68 IAC 3-3-2; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3035; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#); readopted filed Nov 24, 2014, 10:49 a.m.: [20141224-IR-068140402RFA](#); readopted filed Nov 24, 2020, 2:41 p.m.: [20201223-IR-068200446RFA](#)*)

68 IAC 3-3-3 Dual certified enterprises

Authority: [IC 4-33-4](#); [IC 4-33-14-10](#); [IC 4-35-4](#); [IC 4-35-11-10](#)

Affected: [IC 4-13-16.5](#); [IC 4-33-14](#); [IC 4-35-11](#)

Sec. 3. Expenditures with business enterprises that qualify as both a minority business enterprise and a women's business enterprise may, at the election of the casino licensee, be divided between and counted toward the attainment of the established goals for either minority business enterprises or women's business enterprises. Any expenditure, or portion thereof, that is counted toward the attainment of one (1) established goal may not also be counted toward the attainment of another established goal. (*Indiana Gaming Commission; 68 IAC 3-3-3; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3036; filed Jun 9, 2000, 9:52 a.m.: 23 IR 2703; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#); readopted filed Nov 24, 2014, 10:49 a.m.: [20141224-IR-068140402RFA](#); readopted filed Nov 24, 2020, 2:41 p.m.: [20201223-IR-068200446RFA](#)*)

68 IAC 3-3-4 Purpose

Authority: [IC 4-33-4](#); [IC 4-33-14-10](#); [IC 4-35-4](#); [IC 4-35-11-10](#)

Affected: [IC 4-13-16.5](#); [IC 4-33](#); [IC 4-35](#)

Sec. 4. A casino licensee shall endeavor in good faith throughout the term of its certificate of suitability or license to attain the established goals. (*Indiana Gaming Commission; 68 IAC 3-3-4; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3036; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#); readopted filed Nov 24, 2014, 10:49 a.m.: [20141224-IR-068140402RFA](#); readopted filed Nov 24, 2020, 2:41 p.m.: [20201223-IR-068200446RFA](#)*)

68 IAC 3-3-5 Goal achievement

Authority: [IC 4-33-4](#); [IC 4-33-14-10](#); [IC 4-35-4](#); [IC 4-35-11-10](#)

Affected: [IC 4-13-16.5](#); [IC 4-33](#); [IC 4-35](#)

Sec. 5. (a) A casino licensee may attain its established goals of expending a certain minimum percentage of the value of its purchases for goods and services by one (1) of the following:

(1) Purchasing directly from minority and women's business enterprises. The value of the purchase shall be considered for the purpose of determining attainment of the established goal.

(2) Purchasing from a nonminority or nonwomen's business enterprise under terms and conditions that establish a participation plan. If a participation plan is established, the value of the expenditures with minority or women's business enterprises, directly or through the use of participation plans, shall be attributed to the casino licensee for the purpose of determining attainment of the established goal.

(3) Purchasing directly from minority and women's business enterprises that are brokers or contracting representatives, in which case only the amount of the fees retained by the minority or women's business enterprise shall be considered for the purpose of attaining the established goal.

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(b) A casino licensee may not attain more than seventy percent (70%) of each of its established goals through the use of participation plans. For purposes of this rule, and upon request by a casino licensee, all expenditures made by a construction project manager on behalf of, or as an agent of, the casino licensee, which are directly related to a construction project, shall be attributed to the casino licensee and not to a participation plan.

(c) A casino licensee may not attain more than fifty percent (50%) of each of its established goals through contracting with minority or women's business enterprises who are brokers or contracting representatives.

(d) Credit towards attainment of the established goals may be given for purchases from a certified minority or women's business enterprise whose certification is revoked or expired only if the minority or women's business enterprise is recertified before the end of the quarter following the quarter in which certification expired or was revoked. If the minority or women's business enterprise is not recertified by the end of the quarter following the quarter in which the certification expired or was revoked, no expenditures made to that minority or women's business enterprise following the expiration or revocation shall be credited toward attainment of its established goals.

(e) Until January 1, 2010, credit toward attainment of the established goals may be given for purchases from an out-of-state minority or women's business enterprise whose Indiana certification has expired, provided the minority or women's business enterprise maintains certification in its home state. (*Indiana Gaming Commission; 68 IAC 3-3-5; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3036; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#); readopted filed Nov 24, 2014, 10:49 a.m.: [20141224-IR-068140402RFA](#); readopted filed Nov 24, 2020, 2:41 p.m.: [20201223-IR-068200446RFA](#)*)

68 IAC 3-3-6 Reporting purchases with minority and women's business enterprises

Authority: [IC 4-33-4](#); [IC 4-33-14-10](#); [IC 4-35-4](#); [IC 4-35-11-10](#)

Affected: [IC 4-13-16.5](#); [IC 4-33](#); [IC 4-35](#)

Sec. 6. (a) For expenditures made during the calendar year, each casino licensee shall file a report with the commission concerning performance of its continuing obligation to meet the established goals. The report shall be filed with the commission quarterly, not later than January 31, April 30, July 31, and October 31 of each year. This report shall contain the following information, in the format proscribed [*sic*] by the commission, for each vendor:

(1) The total value of all purchases for goods and services.

(2) The total value of purchases from certified minority and women's business enterprises.

(3) The total value of all purchases from a certified minority or women's business enterprises made as a result of a participation plan.

(4) The total value of purchases from noncertified minority and women's business enterprises for which the casino licensee wishes to claim credit toward attainment of the established goals. Credit shall only be given for purchases made during the time an application for certification is pending. If an applicant for certification is denied, no credit will be given for expenditures made with that enterprise.

(5) Other information deemed necessary by the executive director to ensure compliance with the Acts and this title.

(b) The executive director may require a casino licensee to present a written or oral report to the commission concerning performance of its continuing obligation to achieve the established goals. (*Indiana Gaming Commission; 68 IAC 3-3-6; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3036; filed Dec 2, 2001, 12:35 p.m.: 25 IR 1065; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#); readopted filed Nov 24, 2014, 10:49 a.m.: [20141224-IR-068140402RFA](#); readopted filed Nov 24, 2020, 2:41 p.m.: [20201223-IR-068200446RFA](#)*)

68 IAC 3-3-7 Compliance monitoring and certification

Authority: [IC 4-33-4](#); [IC 4-33-14-10](#); [IC 4-35-4](#); [IC 4-35-11-10](#)

Affected: [IC 4-13-16.5](#); [IC 4-33-14](#); [IC 4-35-11](#)

Sec. 7. Each casino licensee shall comply with the monitoring and certification requirements established by 25 IAC 5. The commission may request that the department of administration, minority business development assist the commission in determining that the casino licensee complies with [IC 4-33-14](#), [IC 4-35-11](#), and this title. The commission shall be responsible for enforcing the Acts and this title. (*Indiana Gaming Commission; 68 IAC 3-3-7; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3037; readopted filed Nov 25,*

2002, 10:11 a.m.: 26 IR 1261; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#); readopted filed Nov 24, 2014, 10:49 a.m.: [20141224-IR-068140402RFA](#); readopted filed Nov 24, 2020, 2:41 p.m.: [20201223-IR-068200446RFA](#))

68 IAC 3-3-8 Failure to attain goals

Authority: [IC 4-33-4](#); [IC 4-33-14-10](#); [IC 4-35-4](#); [IC 4-35-11-10](#)

Affected: [IC 4-13-16.5](#); [IC 4-33-14](#); [IC 4-35-11](#)

Sec. 8. (a) A casino licensee may be considered as having failed to satisfy [IC 4-33-14](#) or [IC 4-35-11](#) if any one (1) of the following occurs:

- (1) The casino licensee has failed to make a good faith effort to achieve the established goals.
 - (2) The casino licensee fails to improve its efforts toward attainment of the established goals after becoming aware that it will fail to attain the established goals on an annual basis.
 - (3) The casino licensee fails to prepare and file accurate or timely reports as required by this rule.
 - (4) The casino licensee fails to meet any other provision of [IC 4-33-14](#), [IC 4-35-11](#), or this rule.
- (b) A casino licensee is responsible for the failure of a contractor to comply with the provisions of a participation plan.

However, if:

- (1) a contractor has misrepresented to a casino licensee information concerning the percentage of minority business or women's business obtained or to be obtained as part of the contract; and
- (2) the casino licensee has no reason to know that such information is false;

the casino licensee shall not be responsible for the failure of same contractor. The percentage of minority business or women's business to be acquired via such participation contract shall be included in the calculation of the casino licensee's minority or women's business utilization until the time that the contractor's misrepresentation is or should have been discovered or made known to the casino licensee. If at any time the commission determines that the licensee failed to make a reasonable effort, on at least an annual basis, to verify a contractor's participation plan expenditures, the commission will presume that any misrepresentation by the contractor should have been previously discovered by the casino licensee. (*Indiana Gaming Commission; 68 IAC 3-3-8; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3037; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#); readopted filed Nov 24, 2014, 10:49 a.m.: [20141224-IR-068140402RFA](#); readopted filed Nov 24, 2020, 2:41 p.m.: [20201223-IR-068200446RFA](#))*

68 IAC 3-3-9 Required notification

Authority: [IC 4-33-4](#); [IC 4-33-14-10](#); [IC 4-35-4](#); [IC 4-35-11-10](#)

Affected: [IC 4-13-16.5](#); [IC 4-33](#); [IC 4-35](#)

Sec. 9. (a) Within thirty (30) days after a casino licensee determines that it will not attain an established goal, or that it will not reach utilization consistent with capacity as determined by the most recent disparity study conducted under [IC 4-33-14-5\(b\)](#) or [IC 4-35-11-6\(b\)](#), the casino licensee shall submit a report to the commission that includes a detailed description of its efforts to attain the established goal or capacity, including, but not limited to, the following:

- (1) Documentation of direct contact or negotiations with minority and women's business enterprises for specific contracting or transacting opportunities. The actions taken shall be reported in a manner that will include the following items:
 - (A) A detailed statement of the efforts made to negotiate with minority and women's business enterprises, including the following:
 - (i) The names, business addresses, and business telephone numbers of the minority and women's business enterprises contacted.
 - (ii) A detailed statement of the reason why prospective agreements were not reached.
 - (B) A detailed statement of the efforts, if any, to be undertaken by the licensee that may reasonably be expected to increase the likelihood of achieving the established goal.
- (2) Documentation of any advertising performed in the search for prospective minority and women's business enterprises for the contract or transaction.
- (3) Documentation of any notifications provided to minority business assistance agencies for the purpose of locating prospective minority and women's business enterprises for the contract or transaction.

(4) Documentation of efforts taken to research other possible areas of participation.

(5) Documentation regarding the contractor's policies or programs as they pertain to the utilization of minority and women's business enterprises. This documentation should also provide an explanation of the methods used to carry out those policies or programs.

(6) Documentation relevant to any other efforts made to assist minority and women's business enterprises in overcoming any traditional barriers of participation in the industry affected by the contract or transaction.

(b) The casino licensee and contractor shall maintain adequate records of all relevant data with respect to the utilization and attempted utilization of minority and women's business enterprises and shall provide full access to these records to the executive director or commission upon request to inspect them. The commission shall make the records required by this article available to the department of administration, minority business development upon the direction of the executive director. The records shall include, but not be limited to, the following information:

(1) The degree of achievement of the goals the casino licensee believes possible, and the time frame for achieving the established goals.

(2) The plan devised by the casino licensee regarding the utilization of minority and women's business enterprises.

(3) The resources being devoted toward attainment of the established goal and any changes in that level during the past year.

(4) Any problems encountered by contractors in complying with the provisions of a participation plan, the casino licensee's reaction to these problems, and the efforts made to anticipate the problems and adjust the efforts accordingly.

(Indiana Gaming Commission; 68 IAC 3-3-9; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3037; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#); readopted filed Nov 24, 2014, 10:49 a.m.: [20141224-IR-068140402RFA](#); readopted filed Nov 24, 2020, 2:41 p.m.: [20201223-IR-068200446RFA](#))

68 IAC 3-3-10 Good faith effort

Authority: [IC 4-33-4](#); [IC 4-33-14-10](#); [IC 4-35-4](#); [IC 4-35-11-10](#)

Affected: [IC 4-13-16.5](#); [IC 4-33](#); [IC 4-35](#)

Sec. 10. (a) Whenever the executive director determines that a casino licensee has failed to demonstrate that it has met an established goal, the executive director shall immediately advise the casino licensee of that determination. Within ninety (90) days following the determination, the casino licensee shall demonstrate its compliance with the established goals or a good faith effort to attain the established goals, or the executive director may initiate a disciplinary action under 68 IAC 13.

(b) When determining whether the casino licensee has made a good faith effort to attain any or all of the established goals, the following factors may be considered:

(1) The methods and efforts utilized in an effort to achieve the established goals.

(2) The time allowed for a meaningful response to solicitations.

(3) Statements received from minority and women's business enterprises that have been listed as having been contacted by the casino licensee or contractor.

(4) The availability of certified minority and women's business enterprises to satisfactorily provide the casino licensee with needed goods and services at a competitive price.

(5) Any other factor the executive director or commission deems pertinent to a determination of the good faith effort. The executive director may consult with the department of administration, minority business development regarding a casino licensee's good faith effort.

(Indiana Gaming Commission; 68 IAC 3-3-10; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3038; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#); readopted filed Nov 24, 2014, 10:49 a.m.: [20141224-IR-068140402RFA](#); readopted filed Nov 24, 2020, 2:41 p.m.: [20201223-IR-068200446RFA](#))

68 IAC 3-3-11 Deviations from provisions (*Repealed*)

Sec. 11. (*Repealed by Indiana Gaming Commission; filed Oct 21, 2016, 10:19 a.m.: [20161116-IR-068160052FRA](#)*)

Rule 4. Challenges of the Designation of a Certified Minority or Women's Business Enterprise

[68 IAC 3-4-1](#)

General provisions

68 IAC 3-4-2	Requirements of a challenge (Repealed)
68 IAC 3-4-3	Review by deputy commissioner (Repealed)
68 IAC 3-4-4	Investigation of challenge (Repealed)
68 IAC 3-4-5	Request for a hearing (Repealed)
68 IAC 3-4-6	Status of challenged enterprise during investigation and hearing process (Repealed)

68 IAC 3-4-1 General provisions

Authority: [IC 4-33-4](#); [IC 4-35-4](#)

Affected: [IC 4-13-16.5](#); [IC 4-21.5-3-1](#); [IC 4-33](#); [IC 4-35](#)

Sec. 1. (a) A person may challenge the certification issued to a minority or women's business enterprise as outlined in [IC 4-21.5-3](#) and 25 IAC 5.

(b) The department of administration, minority business development, shall:

(1) review challenges to certifications; and

(2) make recommendations regarding these challenges to the commission.

(Indiana Gaming Commission; 68 IAC 3-4-1; filed Dec 3, 1997, 3:30 p.m.: 21 IR 1256; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#); readopted filed Nov 24, 2014, 10:49 a.m.: [20141224-IR-068140402RFA](#); readopted filed Nov 24, 2020, 2:41 p.m.: [20201223-IR-068200446RFA](#))

68 IAC 3-4-2 Requirements of a challenge (Repealed)

Sec. 2. *(Repealed by Indiana Gaming Commission; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#))*

68 IAC 3-4-3 Review by deputy commissioner (Repealed)

Sec. 3. *(Repealed by Indiana Gaming Commission; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#))*

68 IAC 3-4-4 Investigation of challenge (Repealed)

Sec. 4. *(Repealed by Indiana Gaming Commission; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#))*

68 IAC 3-4-5 Request for a hearing (Repealed)

Sec. 5. *(Repealed by Indiana Gaming Commission; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#))*

68 IAC 3-4-6 Status of challenged enterprise during investigation and hearing process (Repealed)

Sec. 6. *(Repealed by Indiana Gaming Commission; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#))*

Rule 5. Certification; Hearings on Denials and Challenges (Repealed)

(Repealed by Indiana Gaming Commission; filed Oct 1, 2008, 4:17 p.m.: [20081029-IR-068080075FRA](#))

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