

CITY OF LOS ANGELES
Rules and Procedures
for
Minority and Women Business Enterprise Certification



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<https://bca.lacity.gov/certification-program-description>

Rules and Procedures for Minority and Women Business Enterprise Certification

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Rules and Procedures for Minority and Women Business Enterprise Certification

Effective February 1, 2009

1. Purpose and Applicability

These rules and procedures are based on the Code of Federal Regulations (CFR), Title 49, Part 26 and shall be used by the City of Los Angeles Bureau of Contract Administration (BCA), Office of Contract Compliance (OCC), Certification, Outreach, Regulations & Enforcement (CORE) hereafter referred to as the "City" in determining the eligibility of firms for certification as "Minority Business Enterprises" and/or "Women Business Enterprises" ("MBEs/WBEs") and participation in City contracting. These rules and procedures do not guarantee contract participation.

2. Effective Date

These rules and procedures shall be effective as of February 1, 2009 and shall be applicable to all contracts advertised or otherwise solicited and procured after that date to which MBE/WBE requirements apply. Any revisions thereafter will apply.

3. Policy

- A. It is the policy of the City to prevent discrimination in the award of or participation in City contracts as both prime contractors and sub-contractors.
- B. All actions of the City with respect to Certification, Application Closure, Denial of Application, and Removal of a Certification of any applicant shall be made by the City.
- C. A firm's compliance with the Eligibility Standards set forth herein and its initial certification by the City does not guarantee continued certification. The City may conduct post-certification monitoring of a firm to determine its continued eligibility for certification. The City may impose appropriate penalties, including but not limited to, revocation of a prior certification approval, contract suspension, contract termination, or debarment from future City contracting opportunities against persons or entities determined to have violated these rules and

procedures, or aided those obtaining MBE/WBE certification through the provision of false or fraudulent information.

D. The absence of Certification shall in no way affect an applicant firm's right to bid or submit a proposal for any City contract.

4. Definitions

A. "Applicant" means any person or firm who submits a Certification Application as a Minority and/or Women Business Enterprise, including all associated documents and information to the City.

B. "Firm" means a business entity organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials, or labor. Note: Only firms headquartered with its principal office in Los Angeles County may apply for MBE and/or WBE with the City.

C. "Broker" means a firm that sells a product but carries no inventory, and must prove that it assumes financial responsibility for the product before it is delivered.

D. "Certified" or "Certification" means the granting of MBE and/or WBE status to an eligible firm by the City.

E. "Contractor" means any person or firm that shall enter into a contract with the City, and includes all subcontractors, partners and all joint ventures of such person or entity.

F. "Control" means the minority or the female owner(s) shall possess and continuously exercise legal authority and power to determine policies, manage assets and direct the daily operations of the core business activity.

G. "Distributor" means a firm supplying a product with written confirmation of its authorized distributor relationship with a manufacturer.

H. "Home Agency" means the certifying agency, recognized by the City, who issued the most current certification to an MBE/WBE certified firm.

- I. "Joint Venture" means an association of two or more businesses formed to carry out a single business enterprise for profit, and for which purpose they combine their capital, property, efforts, and expertise.
- J. "Minority Business Enterprise" ("MBE") means a certified business at least fifty-one percent (51%) of which is owned and controlled by one or more minority group members; or in the case of a publicly held corporation, fifty-one percent (51%) of the stock is owned by one or more minority group members and whose daily business operations are controlled by one or more such individuals.

A "minority group" member is an individual who is a United States citizen or permanent resident, and is one of the following: Group membership cannot be claimed solely upon being born in a certain country.

- 1) Black Americans - persons with origins in any of the Black racial groups indigenous to countries in the Sub-Saharan region of Africa. Excluded in this category are persons whose origins are from the Middle East/North Africa region such as: Algeria, Bahrain, Egypt, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Qatar, Saudi Arabia, Sudan, Syria, Tunisia, Turkey, United Arab Emirates and Yemen. *

*As listed by The United States Office of the President Trade Representative (USTR) and United Nations Children's Fund (UNICEF)

- 2) Hispanic Americans - persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
- 3) Native Americans - persons who are members of a Native American tribe recognized by the Federal Registry, and also includes Eskimos, Aleuts, or Native Hawaiians;
- 4) Asian-Pacific Americans - persons with origins from Japan, China, Vietnam, Korea, Burma (Myanmar), the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia,

the Philippines, Brunei, Samoa, Guam, Taiwan, Macau, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong; or

5) Subcontinent Asian Americans – persons with origins from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka.

K. "Owned" means having all the customary incidents of ownership, including the right of disposition, and the sharing in all risk and profits commensurate with the degree of ownership interest.

L. "Supplier" means a firm selling and maintaining an inventory of a product.

M. "Women Business Enterprise" (WBE) means a certified business at least fifty-one percent (51%) of which is owned and controlled by one or more women, or, in the case of publicly held corporation, fifty-one percent (51%) of the stock is owned by one or more women and whose daily business operations are controlled by one or more such individuals.

5. Eligibility Standards

A. Evaluation of Applicants

The Eligibility Standards herein shall be used to determine Applicant's eligibility for Certification as an MBE/WBE. Applicant's eligibility shall be thoroughly investigated and reviewed by the City, who will consider all of the facts in the record, taken as a whole.

The investigative technique that shall be employed by the City in determining the eligibility of Applicant firms will be primarily documentation review. The use of additional techniques such as site visits and interviews of principal owners and management officials shall be made in appropriate cases to verify representations made by an Applicant or other documentation submitted. Interviews shall be conducted with individuals, organizations and agencies having knowledge of the Applicant firm, its ownership, management, and principal areas of specialty or expertise. Information may be obtained from any other source such as the applicant firm's webpage. False, erroneous or misleading statements by any Applicant regarding contract performance,

certification-related irregularities, or non-cooperation with information requests by the City shall be deemed grounds for MBE/WBE certification denial.

The firm seeking certification has the burden of demonstrating to the City, by a preponderance of evidence, that it meets the requirements stated herein.

B. Ownership

- 1) An eligible Applicant for MBE Certification must be a firm which is at least fifty-one percent (51%) owned by one or more minority group members, or, in the case of a publicly held corporation, at least fifty-one percent (51%) of the stock of which is owned by one or more minority group members. A "minority group" member is an individual who is a United States citizen or permanent resident and is one of the following: Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Subcontinent Asian Americans.

An applicant for WBE Certification must be a firm which is at least fifty-one percent (51%) owned by one or more women, or in the case of a publicly held corporation, fifty-one percent (51%) of the stock of which is owned by one or more women.

- 2) Ownership and control by minorities and women must be real, substantial, continuing and going beyond *pro forma* ownership of the applicant firm as reflected in ownership documents. Minority or women owners must enjoy all customary incidents of ownership (e.g., ability to transfer stock, title, possession; enter into contracts; secure loans; access and direct funds and bank accounts, etc.) and shall share in all risks and profits commensurate with their ownership interests, as demonstrated by a detailed examination of the substance, rather than the form, of their business arrangements.
- 3) Verifiable contributions of capital or expertise by minority or women owners to acquire their ownership interests in the applicant firm shall be real and substantial and be in proportion to the interest acquired.

Insufficient contributions shall include, but shall not be limited to, promises to contribute capital or expertise in the future; notes payable from minority/women owners to the applicant firm, owners who are not minorities/women, or other non-minority/women owned firms; participation in the applicant firm by alleged minority/women owners as employees without management responsibilities.

The following requirements apply to situations in which expertise is relied upon as part of a minority or woman owner's contribution to acquire ownership:

The owner's expertise must be-

- a) in a specialized field;
 - b) of outstanding quality;
 - c) in areas critical to the firm's operations;
 - d) indispensable to the firm's potential success;
 - e) specific to the type of work the firm performs; and
 - f) documented in the records of the firm. These records must clearly show the contribution of expertise and its value to the firm.
- 4) A firm is deemed to be owned by women or minorities when all interests in a business or other assets were obtained by the individual –
- a) as a result of a final property settlement or court order in a divorce or legal separation, provided that no term or condition of the agreement or divorce decree is inconsistent with this section; or
 - b) through inheritance, or otherwise because of the death of the former owner.
- 5) On the contrary, a firm is deemed to be not owned by women or minorities when all interests in a business or other assets were obtained by the individual as a result of a gift, or transfer without adequate consideration, from a non-minority male individual or a non-minority/male owned firm that

is involved in the firm seeking certification, an affiliate firm, or is involved in the same or a similar line of business.

- a) To overcome this presumption and permit the firm's interests or assets, the individual must demonstrate by clear and convincing evidence that-
 - i. the gift or transfer to the women or minorities was made for reasons other than obtaining certification as an MBE/WBE; and
 - ii. the woman or minority individual actually controls the management, policy, and daily operations of the firm, and its core business activity notwithstanding the continuing participation of a non-minority male individual who provided the gift or transfer.

6) An eligible MBE/WBE firm must be owned by individuals. A firm that is not owned by individuals, but instead is owned by another firm (even an MBE/WBE firm) cannot be an eligible MBE/WBE, except as provided in this section.

- a) If the women or minority individuals own and control a firm through a holding company, established for tax, capitalization or other purposes consistent with industry practice, and the holding company in turn owns and controls an operating subsidiary, the subsidiary may be certified if it otherwise meets all requirements of these Rules and Procedures. In this situation, the individual owners of the holding company are deemed to own the subsidiary through the holding company.
- b) Such a subsidiary may be certified only if there is cumulatively fifty-one percent (51%) ownership of the subsidiary by women or minority individuals. The following example illustrates how this cumulative ownership provision works:

Women or minority individuals own one hundred percent (100%) of a holding company, which has a wholly-owned subsidiary. The subsidiary may be certified, if it meets all other requirements.

- 7) Securities which represent ownership of the Applicant firm by minorities or women shall directly and physically be held by them, without limitation by non-minority men. Securities held in trust or by any guardian for a minor or incompetent person or, in the appropriate case, pledged as collateral to secure any principal indebtedness of Applicant, shall be excluded from the determination of whether the Applicant firm is owned and controlled by minorities or women.

C. Control

- 1) Minority or women owners shall, either collectively or individually, possess the power to direct or cause the direction of management, policies, and objectives of the applicant firm and to make all substantive, day-to-day decisions on applicant firm's major and/or essential operations. No formal or informal restrictions of any kind shall exist, which limit the customary discretion of minorities or women necessary for actual business control. Unless mandated by law, no restrictions in by-law provisions, partnership agreements, or charter requirements shall exist which limit minorities or women from effective and continuous control of the applicant firm or which prevent minorities or women, without the cooperation or vote of any owner who is not a minority or woman owner, from making any operational business decision for the applicant firm.
- 2) The qualifying minority or women owners must control and manage the firm's core business activities. General administrative management of a firm that provides a technical or specialized service or product is not sufficient to demonstrate control.
 - a) The minority or women owners must have managerial and technical competence and experience directly related to the type of business in which the firm is engaged. Expertise limited to office management, financial management, administration, or

bookkeeping functions is insufficient to demonstrate control in a company that performs a specialized or technical service.

- b) The minority or women owners must have the ability to intelligently and critically evaluate information presented by other participants in the firm's activities and to use this information to make independent decisions concerning the firm's daily operations, management, and policymaking.
- 3) The minority or women owners of the firm may delegate various areas of the management, policymaking, or daily operations of the firm to other participants in the firm, regardless of whether these participants are minority or women. Such delegations of authority must be revocable and the minority or women owners must retain the power to hire and fire any person to whom such authority is delegated. The managerial role of the minority or women owners in the firm's overall affairs must be such that the City can reasonably conclude that the minority or women owners actually exercise control over the operations, management and policy of the firm's core business activity.
 - a) Non-minority male individuals may be involved in the firm, but may not possess or exercise the power to control the firm, be disproportionately responsible for the operation of the firm, or possess higher positions/titles over the minority or women owners of the firm.
 - b) In all cases, any business relationship between an applicant firm's minority/women owners and non-minority male owners shall be given close scrutiny to determine conflicts with the ownership and control requirements of these Rules and Procedures.
- 4) The minority or women owners may control a firm even though one or more of the individual's immediate family members (who themselves are not minority or women) may participate in the firm as a manager, employee, owner, or in another capacity. Except as otherwise provided in this paragraph, you must make a judgment about the control the minority

or women owners exercise vis-a-vis other persons involved in the business as you do in other situations, without regard to whether or not the other persons are immediate family members.

If you cannot determine that the minority or women owners as distinct from the family as a whole control the firm, then the minority or women owners have failed to carry their burden of proof concerning control, even though they may participate significantly in the firm's activities.

- 5) The qualifying minority or women owners must hold the highest officer position in the company.
- 6) If a license or credential is required to perform the firm's core business activity, the license qualifier must be the minority or woman owner. Status as a Responsible Managing Officer/Employee (RMO/RME) is not sufficient to meet this requirement. Qualification by waiver is not sufficient to demonstrate expertise.
- 7) The qualifying minority or women owners of the applicant firm cannot engage in outside employment or other business interests that conflict with the management of the firm or prevent the individuals from devoting sufficient time and attention to the management of the firm to control its activities. For example, absentee ownership of a business and part-time work in a full-time firm are not viewed as constituting control. However, an individual could be viewed as controlling a part-time business that operates only on evenings and/or weekends, if the individual controls it all the time it is operating.
- 8) The individual whose expertise is relied upon must have a verifiable and significant financial investment in the firm.

D. Independence

- 1) All MBEs and/or WBEs must be independent businesses. An independent business is one in which the viability of which does not depend on its relationship with another firm or firms and that operates without persistent connections to other non-minority/women owned firms. To determine

whether a potential MBE/WBE is an independent business, BCA/OCC must:

- a) Scrutinize relationships with non-MBE/WBE firms, in such areas as personnel, facilities, equipment, financial and/or bonding support, and other resources.
- b) Consider whether present or recent employer/employee relationships between the minority or women owner(s) of the potential MBE/WBE and non-MBE/WBE firms or persons associated with non-MBE/WBE firms compromise the independence of the potential MBE/WBE firm.
- c) Examine the firm's relationships with prime contractors to determine whether a pattern of exclusive or primary dealings with a prime contractor compromises the independence of the potential MBE/WBE firm.
- d) Consider the consistency of relationships between the potential MBE/WBE and non-MBE/WBE firms with normal industry practice.
- e) Determine that the minority or women owners possess the power to direct or cause the direction of the management and policies of the firm and to make day-to-day as well as long-term decisions on matters of management, policy and operations.
- f) Consider whether the firm owns equipment necessary to perform its work. However, the City should not determine that a firm is not controlled by minority or women individuals solely because the firm leases, rather than owns, such equipment, where leasing equipment is a normal industry practice and the lease does not involve a relationship with a prime contractor or other party that compromises the independence of the firm.

E. Group Membership

A person's group membership as a minority or woman may be established initially upon presentation of acceptable third-party documents that explicitly state ethnicity and/or gender and provide evidence of group membership such as, but

not limited to, birth certificate, parent's or grandparent's birth/death certificate, passport, naturalization paper, tribal membership, and military discharge papers. If the aforementioned documents are not sufficient to prove an applicant's ethnicity, the applicant can provide a Statement of Affirmation on the letterhead from the following acceptable sources to supplement what has already been submitted: civic or social organization, business organization such as a Chamber of Commerce; religious, industry, charitable, educational, scientific, or political associations; or a community leader or government official. The statement of affirmation must attest that the person is regarded as a member of the group, how long the person has been regarded as a member, and signed by a person in authority/officer of the organization. In making a determination, the City will consider whether the person has held himself out to be a member of the group over a long period of time prior to application for certification. Any documents presented as evidence of group membership, in a language other than English, must be translated and notarized. Examples of unacceptable evidence of group membership shall include, but shall not be limited to, the following: DNA ancestry test reports, a notarized self-declaration of an applicant's ethnicity, a declaration by an interested party, photographs, and/or a self-declaration of substantiated incidences of discrimination or social/economic disadvantage. Applicants carry the burden of proof regarding their eligibility and must demonstrate that they meet all requirements concerning group membership. The City reserves the right to accept or reject the sufficiency of an Applicant's proof of group membership.

F. Area of Specialty

- 1) All MBEs or WBEs shall be certified by the City in specific areas of specialty or expertise. An "Area of Specialty or Expertise" means a type of business activity in which the MBE/WBE is regularly engaged, competent to engage, and the area is controlled by the minority or women qualifier(s) (e.g., electrical contractor, motor vehicle parts supplier). The City will determine the applicant firm's competency and assign appropriate NAICS code(s) that correspond to the Applicant's area(s) of specialty or expertise. Applicants involved in technical and/or specialized areas, if state or local

law requires it, must possess the license and/or other credentials in their area(s) of expertise.

2) The following additional requirements apply in order to be certified in these areas of specialty:

a) Trucking Firms:

The MBE/WBE firm must own and operate at least one fully licensed, insured, and operational truck.

Or

The MBE/WBE may lease trucks from another MBE/WBE firm, including an owner-operator who is certified as an MBE/WBE. The lease must indicate that the MBE/WBE has exclusive use of and control over the truck. Leased trucks must display the name and identification number of the MBE/WBE.

b) Vendor and/or supplier:

The MBE/WBE must own, operate or maintain a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. The firm must engage in, as its principal business, and its own name, the purchase and sale of the products in question. A vendor and/or supplier of bulk items such as steel, cement, stone and petroleum products need not keep such products in stock, if it owns or operates distribution equipment.

c) Manufacturers:

The MBE/WBE must operate or maintain a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment.

d) Dealer/Broker:

The MBE/WBE must charge for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities,

equipment, insurance or bonds, materials or supplies required for performance of the contract. The fee or commission is to be reasonable and not excessive as compared with fees customarily allowed for similar services.

- 3) Applicants desiring participation in City contracts in an area of specialty or expertise different from that for which MBE/WBE Certification was initially awarded may request certification in such additional area(s). The written request shall contain information sufficient to establish that a change in status or area(s) of specialty or expertise is warranted. The applicant firm shall provide to the City proof of ability to perform, including the required license(s) or certification(s) in the additional area(s) of specialty or expertise and until such expanded certification is granted, participation as an MBE or WBE in any City contract in a different area or specialty shall be denied.

G. Failure to Cooperate

The City requires all firms seeking MBE and/or WBE Certification to cooperate fully with requests from the City for information relevant to the Certification process. Failure or refusal to provide such information is grounds for Denial or removal of Certification.

6. Certification Application Procedures

- A. Only firms headquartered in Los Angeles County may apply for MBE/WBE Certification with the City. All prospective applicants requesting initial Certification as an MBE or WBE shall file with the City, a completed and notarized City's Certification Application for status as a Minority Business Enterprise (MBE) and/or Women Business Enterprise (WBE).

The MBE/WBE Certification once granted will continue in good standing unless or until the City finds grounds for removal of certification. A certification review may be conducted on a certified MBE/WBE firm, including a new, announced or unannounced onsite review at the firm's offices and jobsites if appropriate in light of a complaint, changed circumstances or other information concerning the firm's eligibility.

- B. All Certification Applications shall be executed under oath by the owner or a duly authorized officer of the applicant firm, and must be notarized.
- C. As a condition of Certification or continued Certification, the City shall be authorized to request from any applicant firm such additional information as may be deemed relevant to any applicant firm's status as an MBE/WBE.
- D. During any period for which any MBE/WBE Certification shall be effective, all books and records in applicant firm's (including agents) possession, which may prove or disprove MBE/WBE eligibility, shall be open for inspection and examination by the City upon reasonable notice.
- E. Application for Certification filed by any applicant firm for MBE/WBE Certification shall include sufficient written authorizations or shall permit the City to obtain from third persons (banks, business references, legal/financial advisors, lessors/lessees, etc.) such information as may be deemed relevant to any applicant firm's eligibility for MBE/WBE Certification.
- F. Credit toward meeting the MBE/WBE participation level shall be denied until the MBE/WBE certification has been approved.
- G. Certification by the following agencies may also be accepted or recognized for purposes of MBE/WBE participation on City contracts. However, if they were denied certification by the City, but they demonstrate that they have resolved the cause for denial, the City will give them MBE/WBE recognition.
 - 1) Disadvantaged Business Enterprise (DBE) Certification from any California Unified Certification Program (CUCP) member agency, provided the firm is at least fifty-one (51%) owned and controlled by women or individuals belonging to the qualifying minority groups
 - 2) Small Minority/Small Women Business Enterprise (SMBE/SWBE) Certification from the California Department of Transportation (CalTrans)
 - 3) Minority/Women Business Enterprise (MBE/WBE) Certification from the California Public Utilities Commission (CPUC) through The Supplier Clearinghouse
 - 4) Minority Business Enterprise (MBE) Certification from the Southern California Minority Supplier Development Council (SCMSDC)

- 5) Women Business Enterprise (WBE) Certification from the Women's Business Enterprise Council-West, Inc. (WBEC-West). WBE Certificates (issued by/from) the Women's Business Enterprise National Council (WBENC) are excluded.
- H. Upon receipt, Application for MBE/WBE Certification shall be stamped with the date of receipt. Applications are prioritized according to the date they are received. Exceptions shall include but are not limited to applicants bidding on City contracts. Applicants shall provide the City with proof of pending participation in such contracts including contract name, due date, and department contact information, as well as a letter from the prime contractor stating their interest in including the applicant firm as a subcontractor.
- I. Upon receipt of the completed Certification Application, a written acknowledgment of receipt will be sent to the applicant firm. Following the established priority system, the Application will be reviewed by the City. This review will include an audit of required supporting documents for omissions and deficiencies. The review may include an onsite visit with the applicant and review of specific additional information in support of the Application as requested. If the firm's location prevents the City from performing a site visit, the firm may be required to obtain a site visit from a local agency approved by the City or via a virtual/video interview.
- J. Any request to an Applicant for additional information shall be in writing and specify that the Applicant must respond to the request within thirty (30) calendar days. If the applicant has not responded or not submitted all the required documents from the request for information, the application will be closed and a closure letter will be sent. If closed for non-response, the file can be reopened within 6 months of closure if the applicant submits all the missing required documents from the initial application. After 6 months from the closure date, the firm would need to submit a new application and supporting documents. The City may grant an applicant a reasonable extension to the 30-calendar day window to submit the required documents. The applicant must state valid reasons for the extension and submit the extension request in writing before the deadline.

- K. Following the City's receipt of a completed Application for Certification, and subsequent assignment to a Certification analyst, and a thorough review of the application with all supporting documents, the City shall issue a written determination granting Certification, Closure or Denial of such Application.
- L. If the City determines that an Applicant does not meet the Eligibility Standards for Certification as an MBE/WBE, a Denial Letter shall be issued to the Applicant. The Denial letter shall specifically inform the Applicant of the material facts and conclusions upon which the decision to issue the Denial of Certification was based. The Denial Letter shall also inform the Applicant of the procedures for appealing such decision. A firm that withdraws its application prior to being denied may reapply at any time when it can meet the MBE/WBE eligibility requirements.
- M. The Applicant may appeal the decision by responding to the denial within ninety (90) days from the date of the Denial Letter. The appeal letter must be addressed to the OCC Program Manager and must be received by the City within 90 calendar days from the date of the Denial Letter. The Applicant's appeal shall be under oath and signed by someone having personal knowledge of the facts contained therein, and include any relevant third-party supporting documentation. All Applicants' appeals should contain sufficient facts to clearly establish that the material facts and/or conclusions upon which the Denial Letter was based were erroneous.
- N. Upon review of an Applicant's appeal of a Denial Letter, the OCC Program Manager shall make a determination as to whether or not the factors cited in the Denial Letter have been sufficiently refuted. The OCC Program Manager's decision will be based on the status and circumstances of the firm as of the date of the original decision being appealed. It will be final and shall be communicated in writing within ninety (90) days of the receipt of the applicant's appeal to the Denial Letter. If the OCC Program Manager concurs with the City findings to deny certification, his/her letter shall include information that the applicant may re-apply one year from the date of the appeal concurrence.

- O. Changes in an MBE/WBEs ownership, management, officers, or financial relationships which may impact the Applicant's eligibility must be communicated in writing to the City within thirty (30) business days of such change. Failure to communicate such changes as required herein shall constitute grounds for the Initial Denial or Removal of Certification of the MBE/WBE applicant.
- P. If the City has reason to believe that the information contained on an Application for Certification is inaccurate, incomplete, or outdated; then the City may request the submission of a new Application from any MBE/WBE. Non-compliance with such a request shall constitute grounds to Deny Certification.

7. Certification Removal Procedures

- A. Upon receipt of information believed by the City to be reliable, and which indicates an Applicant's ineligibility for continued Certification as an MBE/WBE, such information shall be considered by the City to determine if reconsideration of the Applicant's Certification eligibility is warranted.
- B. Where, after consideration of such information, the City determines that the certification should be Removed, the City shall issue an "Intent to Remove" (Preliminary Notice) letter to the Applicant. The Preliminary Notice shall inform the Applicant of all material facts upon which the decision was based. It shall also afford the Applicant thirty (30) calendar days within which to present written evidence to establish its continuing eligibility to the applicable MBE or WBE standards set out in these Rules and Procedures.
All MBE/WBE responses shall be under oath and signed by an authorized person with knowledge of the facts contained therein. Upon request, properly authenticated original documents shall be provided to the City. Failure of the MBE/WBE to submit such written evidence within the required thirty (30) calendar days shall cause the City to issue a Removal of Certification Letter to the Applicant.
- C. The City shall review any responsive statement of the MBE/WBE for reconsideration of the Preliminary Notice. Within ninety (90) business days thereafter, the City shall recommend to either reinstate a firm's Certification or De-Certify the MBE/WBE.

D. All final actions and/or decisions of the City with respect to the Certification Removal of an MBE/WBE shall be communicated in writing to the MBE/WBE.

E. Following the Certification Removal of any MBE/WBE, the name of such MBE/WBE shall be removed from the master directory of Certified MBEs and WBEs maintained by the City.

8. MBE/WBE Directory

The Bureau of Contract Administration (BCA) shall maintain a Directory of Certified Firms. The Directory shall identify all certified MBEs and WBEs by name, contact information and principal contact person, Certification status (i.e., MBE and/or WBE), area of specialty and/or expertise, and date of Certification. The Directory shall be published on the City's website and shall be available to all interested persons.

9. Non-Disclosure of Certification Information

Unless otherwise mandated by law, and/or approved in writing by the applicant, no City employee acquiring knowledge or vested with any responsibilities with respect to MBE/WBE Certifications information shall disclose to any person, other than the City, or other persons duly authorized to receive MBE/WBE Certification information, the content of any MBE/WBE Application or document filed in support thereof. Nor shall such employee disclose to, or discuss with, any unauthorized person, information regarding deliberations by the City in connection with Certification or Removal of Certification information of any Applicant. Non-compliance with this section shall subject the employee to applicable City disciplinary sanctions up to and including termination.

10. Depository and Retention of Records

Records of all active MBE/WBE files shall be maintained by the City. Records of all Applications for Certification as MBE/WBE that have been closed for six (6) months will be placed in storage. After closure, inactive and closed records will follow the City's policy on Records Retention and Destruction.

-End-