

**CITY OF CHICAGO
AND
COOK COUNTY**

RECIPROCAL CERTIFICATION PROGRAM
FOR
CERTIFIED MINORITY- AND WOMEN-OWNED
BUSINESS ENTERPRISES
(M/WBE)

TABLE OF CONTENTS

<i>Section 1 – General Information</i>	1
<i>Section 2 – Objectives</i>	1
<i>Section 3 – Policy Background</i>	1
<i>Section 4 - Introduction of the Reciprocal Program</i>	3
<i>Section 5 – Non Compliance</i>	4
<i>Section 6– Consolidation of Both Participants’ M/WBE Firms in the Reciprocal Certification Program</i>	4
<i>Section 7 – Firms Ineligible for Reciprocal Certification</i>	5
<i>Section 8 – Host Agency Designation Process</i>	5
<i>Section 9 – Unified M/WBE Directory</i>	6
<i>Section 10 – Certification Process</i>	6
<i>Section 11 – Certification Procedures</i>	7
<i>Section 12 – Site Interview/Visit</i>	19
<i>Section 13 –Denial & Appeal Process</i>	21
<i>Section 14 – Certification Investigation/Removal, De-Certification, and Debarred Process</i>	22

Section 1 – General Information

Program Owners: City of Chicago
Cook County

Executive Officials: City of Chicago
Jamie Rhee, Chief Procurement Officer
Monica Jimenez, Deputy Procurement Officer
George Coleman, Deputy Procurement Officer

Cook County
Jacqueline Gomez, Director of Contract Compliance
Lisa Alexander, Deputy Director of Contract Compliance

Section 2 – Objectives

To ensure that the City of Chicago and Cook County are effectively coordinating activities and minimizing risks when each agency accepts M/WBE certifications from the other agency.

Section 3 – Policy Background

City of Chicago

The City's Minority and Women-Owned Certification program was established in 1985 under Mayor Harold Washington and was codified under Mayor Richard M. Daley in 1990. The regulations are implemented as a result of Chapter 2-92-420 et. seq. of the amended Municipal Code authorizing a Minority and Women-Owned Business Enterprise Procurement Program and, except as otherwise provided herein, shall be used by the Chief Procurement Officer in all final actions with regard to determining the status of a firm as a "Minority Business Enterprise", a "Women Business Enterprise", and a "Business Enterprise Owned or Operated by People with Disabilities (BEPD)" for City procurement purposes. The Ordinance mandates that the City of Chicago use its purchasing functions to provide and enhance competitive opportunities for minority and women-owned businesses located within the six-county region of Cook, DuPage, Kane, Lake, McHenry, and Will in the State of Illinois.

The City of Chicago's certification regulations for construction contracts are implemented pursuant to Article V of Chapter 2-92 of the amended Municipal Code, authorizing a Minority and Women-Owned Business Enterprise Procurement Program for construction contracts, and shall be used by the Chief Procurement Officer in all final actions with regard to determining the status of a firm as a Minority-Owned Business Enterprise or a Women-Owned Business Enterprise for the City of Chicago's construction contracts.

It is the policy of the City of Chicago that MBEs, WBEs, and BEPDS have the maximum feasible opportunity to participate fully in all contracts (including construction) financed in whole or in part with City funds, or funds over which the City has control.

A major objective of that policy is the modification and/or elimination, within the confines of applicable law, of City procurement practices and policies which heretofore have denied legitimate businesses owned and controlled by women and racial/ethnic minorities meaningful opportunities to participate in City-awarded contracts.

Cook County

In 1988, the County established a program to ensure the full and equitable participation of Minority and Women-Owned Business Enterprises (M/WBE) in the County's procurement process as both prime contractors and subcontractors.

Cook County's Minority- and Woman-owned Business Enterprise General Ordinance may be found at Section 34-260 et seq. of the Cook County Municipal Code.

As stated in the Ordinance,

- (a) It is the public policy of the County to strive to achieve the full and equitable participation of minority- and woman-owned businesses in the County's procurement process as both prime and subcontractors.
- (b) The County is committed to a policy of preventing discrimination in making Procurements, and eliminating arbitrary barriers to participation in Procurements by all persons, regardless of race, sex, or ethnicity.
- (c) The purpose of this division is to establish and implement goals for participation of PCEs in Procurements, in compliance with all applicable laws.

In furtherance of this policy, the Cook County Board of Commissioners has adopted a Minority and Women-owned Business Enterprise Ordinance which establishes a goal of awarding not less than twenty-five percent of the annual total dollar amount of Contracts other than Public Works Contracts to MBEs and ten percent of the total dollar amount of such contracts to WBEs. For professional services and consulting services contracts, the County sets an annual "best efforts" goal of thirty-five percent of the annual total dollar amounts of County contracts to Certified MBEs and WBEs. For Public Works

Contracts, the Annual Aspirational Goals are twenty-four percent for MBEs and ten percent for WBEs.

Reciprocal Certification

On March 27, 2012, Chicago's Mayor Rahm Emanuel and Cook County Board President Toni Preckwinkle announced a reciprocal certification initiative that will enhance crucial jobs for minority and women-owned businesses in Chicago and Cook County. The new initiative allows small minority- and women-owned businesses to be certified by just one government, and have that certification accepted by both entities, provided that firms meet both the City of Chicago and Cook County's certification criteria.

These changes have dramatically streamlined the processes and increased the opportunities for minority and women-owned businesses in the six-county regional area, by easing the financial burden and standardizing processes so businesses do not have to simultaneously deal with two distinct systems.

Procurement Code Revision

In July 2012 and March 2014, Cook County revised its Procurement Code to enhance its M/WBE Program in an effort to facilitate reciprocity between both agencies for M/WBE certifications. The M/WBE Ordinance revisions included but were not limited to the following: Changes to the County's market area to include the same 6 counties recognized by the City of Chicago; changes to include the same time frame for certification evaluations (5 years); and changes to include the same certification application fee structure and amount as the City of Chicago.

Section 4 - Introduction of the Reciprocal Program

The City of Chicago and Cook County Reciprocal Certification agreement is based on a concept of reciprocity between the City of Chicago and Cook County. To the greatest degree possible, "one-stop shopping" will be provided to applicants for M/WBE certification, such that applicants need only apply once for M/WBE certification that will be honored by both the City of Chicago and Cook County, provided that firms meet both the City of Chicago and Cook County's certification criteria.

- In order for the Reciprocal Certification Program to succeed and for both participants to maintain the level of trust needed to effectively comply with the requirements, it is necessary to implement minimum program requirements for compliance and a process for addressing issues that will arise. All decisions and recommendations related to certification will be made in compliance with the City

of Chicago and Cook County regulations, and these regulations shall be consistent to the greatest degree possible.

- Both Reciprocal Participants agree to full disclosure of their complete applicant files and/or documentation when requested by the other Reciprocal Participant and authorized by the relevant M/WBE firm.
- Both Reciprocal Participants understand that there are no “emergency” or “conditional” certifications. All certifications must be made final before the due date for bids or offers on a contract on which a firm seeks to participate as an M/WBE firm.
- Both Reciprocal Participants agree to safeguard from disclosure to unauthorized persons information gathered as part of the certification process that may be reasonably regarded as proprietary or other confidential business information, consistent with the applicable federal, state, and local laws.
- Communication and messaging for internal and external purposes shall be consistent.

Section 5 – Non Compliance

If either Reciprocal Participant believes that the other participant has failed to comply with its obligations, the complaining participant may submit a complaint with the designated party.

Each Reciprocal Participant will be responsible for conducting a periodic audit to ensure compliance with the procedures set forth herein. This audit can be conducted either by the Participant's internal audit department or by an external audit source.

A summary of the findings will be sent to both Participants. In the event that a deficiency of any kind is found in a Participant's procedures, the Participant will have thirty (30) days to correct the deficiency, with written confirmation to both Participants. In the event that the noted deficiencies are not corrected within the specified time period, the foregoing provisions regarding non-compliance shall be followed.

Section 6– Consolidation of Both Participants’ M/WBE Firms in the Reciprocal Certification Program

At the time of formation of the City of Chicago and Cook County Reciprocal Certification Program, it shall have a limited "grandfather clause," which provides M/WBE certification to those firms meeting both the City of Chicago and Cook County's certification criteria. These "grandfathered" firms will then be accepted and recognized

by both participants. All grandfathered firms will continue their eligibility as M/WBEs under the Reciprocal Certification Program until their current certification expires.

At the beginning of the grandfathering process, each Reciprocal Participant will submit a complete and updated list of its certified M/WBEs for review by the other Participant. A firm must have: (1) been certified by at least one of the Participants; (2) no objections to M/WBE eligibility by the other Reciprocal Participant in order to be "grandfathered" into the Reciprocal Certification Program; and (3) not been decertified or denied certification by the other Reciprocal Participant as detailed in Section 7 herein.

Either Reciprocal Participant may object to any firm's inclusion into the grandfathered M/WBE list by submitting a written notification to the other Reciprocal Participant. Both Reciprocal Participants will review the written notification, any investigation records, available material and information submitted by the M/WBE firm or by Reciprocal Participants.

Section 7 – Firms Ineligible for Reciprocal Certification

Neither Reciprocal Participant shall accept the certification of a firm that was decertified or found ineligible for certification by that Reciprocal Participant.

Section 8 – Host Agency Designation Process

Each M/WBE firm's Host Agency will be decided as follows:

- **Current M/WBE firms that are certified with Cook County and not the City of Chicago:** Cook County will be these firms' designated Host Agency. **Current M/WBE firms that are certified with Cook County and the City of Chicago:** Cook County will be these firms' designated Host Agency.
- **Current M/WBE firms that are certified with the City of Chicago only:** the City of Chicago will be these firms' designated Host Agency.
- **Host Agency** - The Host Agency will be responsible for the processing of its M/WBE firms' No Change Affidavits, Recertification Applications, and Expansion Requests.
- **Request to Change Host Agency** - An M/WBE firm may request to change its designated Host Agency in writing, which must be approved by both Reciprocal Participants.
- **New Firms Applying for M/WBE Certification** - New firms applying for M/WBE certification under the Reciprocal Certification Program can select which agency they will submit their application to, and this will determine their Host Agency.

Section 9 – Unified M/WBE Directory

The Reciprocal Participants will maintain a unified M/WBE directory containing pertinent information on all firms. The directory should be available to the public electronically on the Internet. Both Reciprocal Participants shall be responsible for all required updates, including additions, deletions, and other changes on a regular basis.

Section 10 – Certification Process

The Reciprocal Participants must ensure that all certification procedures and standards are followed in making eligibility decisions in accordance with the City of Chicago and Cook County's rules and regulations.

The certification process by each Reciprocal Participant includes the following:

- A thorough, detailed, and complete analysis of the application and supporting documentation must be performed, and an on-site visit at the offices and/or job site(s) of applicable applicant must be conducted by the certifying Reciprocal Participant (see the site interviewing/visit section herein for further detail regarding site visit requirements). Following completion of the file analysis and on-site questionnaire, a summary report is drafted by a certification analyst. The summary report provides the analyst's recommendation regarding the applicant firm's certification eligibility. The recommendation is presented to the analyst's supervisor, and then to the Reciprocal Participant's designated personnel (per the City of Chicago and Cook County's rules and regulations), who makes the final decision regarding the firm's M/WBE Program eligibility.
- The certifying Reciprocal Participant has the responsibility to ensure a standardized approach to all certification decisions. The procedures outlined herein provide guidance and direction for completing the certification process. Additional information and regulatory requirements pertaining to the M/WBE Program are contained in the City of Chicago and Cook County's rules and regulations.
- Decisions on applications for certification must be made by the certifying Reciprocal Participant within ninety (90) days of receiving all required information from the applicant firm.
- Once a firm is certified, it shall remain certified for a period of five (5) years unless and until its certification has been removed through the procedures set forth in the City of Chicago and Cook County's rules and regulations. Unless there are changes in the factual basis on which the certification was made, a firm is not required to reapply for certification as a condition of continuing to

participate in the program during this five-year period. However, a certified firm must provide a No Change Affidavit every year on the anniversary date of its certification.

- Any change in circumstances affecting an M/WBE firm's ability to meet size, ownership, or control requirements, or any material change in the information previously provided, must be provided by the M/WBE firm in writing to the certifying Reciprocal Participant within ten (10) days of the occurrence of the change. If the M/WBE firm fails to make timely notification of such a change, it will be deemed to have failed to cooperate with the City of Chicago and Cook County's rules and regulations, and shall constitute grounds for denial of continued eligibility or de-certification of the business.

Section 11 – Certification Procedures

It is important for each Certification Analyst to understand that it is the responsibility of the applicant to provide the information deemed necessary by the certifying agency to determine eligibility. The burden of proof of eligibility is on the applicant. The following guidelines will help to clarify the application process:

- The City of Chicago and Cook County's processes shall secure all necessary information from applicants through a well-defined application procedure and review process.
- The applicant is required to provide evidence in support of fulfilling all M/WBE eligibility standards set forth in the City of Chicago or Cook County's M/WBE certification criteria. Also, the files shall contain all appropriate documentation in support of the firm's certification. The following is a list of the materials that may be requested as a part of the application for certification as a Minority or Women-Owned Business Enterprise. For more details, please refer to the City of Chicago or Cook County's certification criteria as well as the certification document checklist in the appendices.
 - ✓ Complete and properly execute application and all required attachments, including personal net worth statement (if applicable);
 - ✓ Required application fee;
 - ✓ Documents establishing ethnicity and/or gender, e.g., birth certificates, passports, naturalization papers, resident alien card, or tribal enrollment cards;
 - ✓ Documents establishing ownership of record, including articles of incorporation, by-laws, partnership agreements, limited liability

company agreements, issued stock certificates, shareholder agreements, minutes of initial and most recent board of directors' meetings, and corporate income tax returns;

- ✓ Documents establishing that ownership was acquired through real and substantial contributions of expertise, capital or other tangible personal assets;
- ✓ Documents establishing that the contributions are derived from the assets of the individual(s), including bank receipts, stock certificates, and corporate minutes;
- ✓ Documents establishing the applicant's personal net worth, including, but not limited to, personal net worth statement, bank account statements, pension fund statements, mortgages, 401(k) account statements, tax returns (personal and corporate), and investment statements;
- ✓ Documents establishing the gross receipts of the applicant's firm for the last 5 years (3 years for City non-construction applicants) or, in the case of a newly formed business, a balance sheet and/or business plan and current and previous years' individual tax returns for the last 5 years (3 years for City non-construction applicants);
- ✓ Documents establishing access to real properties to conduct business (e.g., real estate deeds, rental lease agreements, and mortgage agreements);
- ✓ Résumés of owners, managers, partners, and other key personnel;
- ✓ Titles to or leases for major equipment and/or vehicles;
- ✓ Past and current loan agreements of applicant or between any owners;
- ✓ Evidence of contracts with clients or suppliers;
- ✓ References;
- ✓ Licenses (if applicable);
- ✓ Requirements for supplier/distributors: Warehouse lease, inventory list, manufacturer and distributor agreements.

Certification shall be limited to the area(s) of specialty or expertise determined by the certifying agency to be most reflective of the applicant's demonstrated specialty or

expertise. The Reciprocal Certification process utilizes the North American Industry Classification System (NAICS) to determine areas of specialty, which can be found at <http://www.census.gov/eos/www/naics/>. An applicant may be certified in more than one area of expertise, so long as the eligibility criteria are met. The categories of specialty or expertise must be used by the applicant in completing the application.

Intake

Upon receipt of the application by the Certifying agency, the form shall be dated and time stamped. The date and time stamp shall conclusively establish the receipt date of such form. Applications for certification and/or recertification must include the appropriate fee payment.

Initial Review

Certification units will evaluate the completeness of the application and supporting documentation submitted by applicant firms using standardized procedures, including Reciprocal Certification document/quality assurance checklists (see General Document Guideline Table).

Certification unit(s) will create physical file folders of the applicant firm's application and supporting documentation, place all submitted documentation in the applicant firm's file folder, and draft request for information letters when the documentation submitted is incomplete or unclear. The certification units will then conduct an analysis to confirm any debarments, denials, decertifications, or whether the firm resides within the six county region. This step in the review process should precede all other document reviews.

Detailed Review and Analysis

Perform a complete review of the application and supporting documentation to ensure that all relevant documents have been submitted. Tracing dates through the documentation is a good review technique. Conflicting dates/information must be resolved. Compare changes in financial position to check for possible effects on control.

If there are questions/concerns, the applicant is either contacted by phone or a Request for Information (RFI) letter is prepared, documenting the need for additional information.

Applicants are given 15 calendar days after receipt of the RFI letter to respond. If information is not received by the 15th calendar day, a follow-up RFI letter will be sent, giving the firm an additional 15 calendar days to respond. If, within the specified time period, no contact has been made by the applicant, the analyst submits a memorandum

to his/her supervisor recommending denial based on failure to cooperate. The denial letter is prepared and forwarded to the designated personnel for signature.

An applicant firm may request an extension of time to submit the required information as identified on the RFI documents. Any additional time needed must be approved by the supervisor or designated personnel.

Keep a record in the file of all contact and communication with an applicant. This file information is a permanent record of activity with an applicant. The record should include the date of contact, contact person, questions asked, and responses.

Perform subsequent analysis and review of the file. This includes reviewing the information contained in the file, individually as well as collectively, and documenting the findings during the review.

- The authorized/registered legal name of the firm should be verified for accuracy.
- The main address of the firm should be the actual physical location of the main or corporate office. Post office box numbers are not acceptable.
- The contact person should be an individual(s) the analyst can contact for answers to questions regarding the certification application.
- Ethnicity should be resolved early in the process. In cases where ethnicity cannot be determined, additional documentation is required.
- Make sure copies of all relevant business documents (depending on type of firm) are included as mentioned above. Further details can be found in the City of Chicago and Cook County's ordinances.
- Proof of contribution by the M/WBE owners may be shown by providing copies of canceled checks (both sides), signed loan agreements, deposit slips, proofs of purchase, and vehicle titles.
- A flow chart is helpful when there are organizational changes or several companies with interlocking directors and/or officers. This will give a clearer picture of interlocking relationships and possible affiliations.
- Reviews of equipment titles and registrations can be used to assist in determining ownership. Obtain or compile a list of the equipment owned by or available to the firm and the license(s) the firm and its key personnel possess to perform the requested work categories.
- Review the resume(s) of the owner(s), officer(s), member(s) of the board of directors and principal management and control personnel. "Control" means that

the M/WBE owner(s) not only directs the management of the business, but also oversees its day-to-day operations, i.e., managerial and operational control. Areas of consideration include: hiring and firing authority, signature authority, financial obligation authority, contract negotiation authority, bidding and estimating expertise, firm policy development ability, job selection authority, and day-to-day and long-term decision-making authority that affect the performance/operation of the firm.

- Ownership (control) means a firm must be at least 51 percent owned by qualifying M/WBE individuals. In the case of a corporation, such individuals must own at least 51 percent of each class of voting stock outstanding and 51 percent of the aggregate of all stock outstanding. In the case of a partnership, M/WBE qualifying individuals must own 51 percent of each class of partnership interest. Such ownership must be reflected in the firm's partnership agreement.

Financial information is useful in resolving management, operational, and ownership control concerns. Areas of consideration include:

- Financial statements;
- End-of-year balance sheets and profit and loss statements over a three-year period for non-construction and five-year period for construction;
- Accounts/notes payable, and loans payable/receivable to/from stockholders and officers;
- Accrued expenses, purchases/loans, and footnotes to the financial statement;
- Expense statements: salaries, rent expenses, lease expenses, payment to subcontractor(s);
- Changes in financial position;
- Corporate tax returns: salaries paid to officers, dividends paid, and names of officers and stock ownership;
- Partnership/third party agreements: terms/purpose of agreement, parties to the agreement, duties and responsibilities of each party, and dollar investment/division of profits.

Affiliates must be considered together in determining whether a firm meets small business size criteria, and the statutory cap on the participation of firms in the program.

Attention should be paid to the bonding capacity of the firm. The dollar amount should be in line with the work history of the firm, including contracts it has received and work it has completed.

Both Reciprocal Participants must establish Consistent Eligibility Criteria:

- An applicant for MBE certification must be a business entity which is at least 51% owned by one or more members of one or more minority groups or, in the case of a publicly held corporation, at least 51% of the stock is owned by one or more members of one or more minority groups; and whose management and daily business operations are controlled by one or more such individuals.
- An applicant for WBE certification must be a business entity which is at least 51% owned by one or more women or, in the case of a publicly held corporation, 51% of the stock is owned by one or more women, and whose management and daily business operations are controlled by one or more such women.
- A for-profit corporation, partnership, association, business trust, estate or other legal entity that is either 51 percent or more owned (directly, indirectly or beneficially) by one or more individuals with disabilities and whose management and daily business operations are controlled by one or more individuals with disabilities;
- Determinations of ownership in the applicant firm by minorities and women shall be made without regard to community property laws of any state. It shall be the responsibility of all applicants to establish, by clear and convincing evidence, that they are owned and controlled by minorities and/or women. The following criteria apply:
 - ✓ The owner of the applicant firm must demonstrate financial resources to acquire ownership and past experience that verifies demonstrated capability to engage in business in the area for which certification is sought. It is of no consequence that other partners/owners, spouses, or employees have these abilities or resources;
 - ✓ Control is comprised of two parts: managerial and operational. Must exercise responsibility for the critical areas of the applicant's daily operations and independent and unilateral business decisions;
 - ✓ The minority or women owner(s) must demonstrate that he/she independently makes basic decisions in daily operations;
 - ✓ If a corporation, exercise control of the board of directors;
 - ✓ If a partnership, exercise control of the business enterprise as documented in a partnership agreement;
 - ✓ If a limited liability company, exercise control of the company, as documented in the articles of organization or the regulations;

- ✓ Possess adequate assets or resources to operate self-sufficiently in areas of finance, bonding, supervision, personnel, equipment, materials, and facilities;
- ✓ Owners must accept risks and profits commensurate with their ownership interests, as well as receive at least 51% of any dividends paid upon liquidation.
- ✓ Ownership and control by such minorities and women shall be real, continuing, and go beyond the pro forma ownership of the applicant as reflected in ownership documents. Minority and/or women owners shall enjoy all customary incidents of ownership and shall share in all risks and profits commensurate with their ownership interests, as demonstrated by a detailed examination of the substance of their business arrangements with others. Ownership is demonstrated by:
 - ✓ An ability to transfer stock, title, and possession;
 - ✓ Verifiable assets for acquisition derived from independently owned holdings without benefit of a transfer of assets or gift from non-minority person(s) by other means;
 - ✓ Documentation should be found in the business records of the applicant that clearly show the minority/women owners' contribution of expertise and its value to the applicant;
 - ✓ Securities which represent ownership of the applicant by minorities or women shall be directly and physically held by them, without limitation by non-minorities or 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 is owned and controlled by minorities or women;
 - ✓ Contributions of capital or expertise by minority or women owners to acquire their ownership interests in the applicant must be real and substantial, and be in proportion to the interest(s) acquired. Such contributions will not be required if the minority or woman owner can demonstrate that it has received a bona fide inheritance from a deceased relative to acquire ownership, which inheritance was not made for the purpose of obtaining certification. For purposes of this determination, a relative shall mean an immediate

family member, a sibling, a parent or a grandparent. Contributions of capital or expertise are also not required if the minority or woman owner acquires its ownership interest in the applicant as a gift from a relative, subject to the following exceptions:

- ✓ For purposes of determining ownership, it will be presumed as not being held by a minority or woman all interests in a business or other assets obtained by the individual as the result of a gift from a relative who is:
 - ✓ Substantially involved in the applicant firm, or an affiliate of that firm;
 - ✓ Substantially involved in the same or a similar line of business; or
 - ✓ Engaged in an ongoing business relationship with the applicant firm, or an affiliate of that firm.
- ✓ To overcome this presumption and permit the gifted interests or assets to be counted, the minority or woman owner must demonstrate, by clear and convincing evidence, that:
 - ✓ The gift or transfer to the minority or woman owner was made for reasons other than obtaining certification; and
 - ✓ The minority or woman owner actually controls the management, policy, and operations of the firm, notwithstanding the continuing participation of the relative who provided the gift or transfer.
- Insufficient contributions of capital or expertise shall include, but shall not be limited to:
 - ✓ Promises to contribute capital or expertise in the future;
 - ✓ Notes payable from minority or women owners to the applicant or owners who are not minorities or women;
 - ✓ Participation in applicant firm by alleged minority or women owners as mere employees;
 - ✓ Provision by any alleged owner of goods, services, or equipment having an actual or estimated value based upon industry standards that is substantially less than the value attributed in Applicant's Schedule A, or No Change Affidavit.

All M/WBEs must be viable and independent businesses. "Viability" of the applicant shall be examined with reference to its capital structure as determined from audited or auditable financial statements or income projections when the applicant is a new business. Viability will also be determined by a review of the following criteria; however, review may not be limited to these areas:

- Possession of insurance, bonds and/or licenses (e.g., sewer, contractor, plumber, etc.) mandated by applicable governmental agencies to perform the work the applicant represents as its principal area(s) of specialty/expertise;
- Access to real properties and facilities from which to conduct day-to-day business operations;
- Employment of and/or access to employment of persons in sufficient numbers and with expertise essential to satisfactory contract performance in its proffered area(s) of specialty/expertise; and
- The applicant's ownership of and/or access to equipment, goods, supplies, etc. essential to its satisfactory performance in its proffered area(s) of specialty/expertise.

"Independence" shall be examined with reference to the perceived ability of the applicant to perform in its area(s) of specialty/expertise without substantial reliance upon finances, resources, expertise, manpower, facilities, or equipment of non-minority or non-women business enterprises. Recognition of the applicant as a separate and distinct entity by governmental taxing authorities shall not be dispositive of any applicant's assertions of independence. Independence shall be established by reviewing the following criteria:

- Date business was established;
- Degree to which financial, equipment leasing, business and other relationships with non-minority or non-women-owned firms vary from normal industry practice; and
- Determination of adequacy of expertise without the need to rely upon a non-minority or male individual.

Minority and Women-Owned Business Enterprises may be certified in more than one area of specialty or expertise, as long as the eligibility criteria are met. Applicants desiring to be certified in additional areas of competence may submit an expansion request in writing. Until certification is awarded, participation on a contract in an uncertified area shall not count toward fulfillment of M/WBE contract goals.

In the following and other appropriate cases, the applicant shall be closely scrutinized to determine its true abilities to operate viably and independently of non-minorities/males, or to otherwise meet the viability and/or independence criteria herein:

- Applicant's status as a party to any long-term (i.e., more than three years) contract, lease, or lease agreement with non-minority/male persons or firms;
- Applicant's status as a party to any contract, lease, or lease agreement on terms at variance with industry standards or prudent business practices;
- Interlocking stock ownership of the applicant and non-minority/male-owned businesses in the same or related industry;
- Common directorates/officers between the applicant and non-minority/male-owned businesses;
- Applicant's use of employees, equipment, expertise, or facilities "shared" with or obtained from non-minority/male-owned businesses;
- The receipt by the applicant's non-minority/male owners of financial benefits (e.g., dividends, loans, salaries, and distributions) from the applicant which exceed their proportionate ownership interests;
- The applicant's failure, after a reasonable period, to demonstrate an ability to operate as a viable entity without continuing substantial reliance upon equipment, facilities, leasing, and/or creditor-debtor relationships with non-minorities/males;
- Newly established firms and firms whose ownership and/or control has changed since the date of the advertisement of a specification or the date its applicant has indicated that a bid response will be submitted;
- Any previous and/or continuing employer-employee relationship among or between present minority and/or women owners and those who are not minorities or women to ensure that all minority/women owners actually have the independent ownership and management responsibilities and capabilities contemplated by these regulations.
- 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 and to make all substantive day-to-day decisions on Applicant's major and essential operations. No formal or informal restrictions of any kind shall exist that limit the customary discretion necessary to actual business control by the minorities or women. Unless mandated by law, no

restrictions in by-law provisions, partnership agreements, or charter requirements shall exist that limit minorities or women from effective and continuous control of the applicant or that prevent minorities or women, without the cooperation of any owner who is not a minority or woman, from making any operational business decision for the applicant. In all cases, any business relationship between the applicant and its minority/women owners and non-minorities/males shall be given close scrutiny to determine conflicts with the ownership and control requirements of the City/County regulations.

- It shall be presumed, unless conclusively established otherwise, that the status of any minority or woman as an owner/manager of the applicant shall require full-time participation by such person in the management of the applicant's day-to-day activities. In addition, current employment histories of all owners and managers shall be requested, reviewed, and verified to determine the administrative and business expertise and involvement by such persons in activities and employment which may contradict any representation of full-time management participation.
- Absentee management or ownership by any minority or woman owner who does not assume and exercise an active and substantial role in applicant's day-to-day management shall be considered in the determination of whether the applicant is owned and controlled by minorities or women.
- Owners of the applicant who are not minorities or women shall not be vested with the primary responsibility or ability to direct its day-to-day management operations. In cases where evidence indicates that major management activities (e.g., hiring and firing of management personnel, equipment/supply/acquisitions and purchases, negotiating contracts, estimating contract costs and approval, and check signing) of the applicant are performed by persons other than the minority/women owners, persons actually performing such duties shall be presumed to control those aspects of the applicant's business.
- All information provided by the applicant shall demonstrate an applicant's ability to obligate itself contractually, without prior approval of non-minorities/males, to a prime contractor, joint venture and/or the City of Chicago/Cook County in the performance of a contract, subcontract, or legally binding agreement, whichever is applicable, and to perform the majority of that which it is obligated to perform through the use of its own employees and/or equipment.

- Evidence of the applicant's certification as an M/WBE (or Disadvantaged Business Enterprise, as that term is defined in 49 CFR Part 26) by another governmental body or agency shall be a factor but is not dispositive in the determination of the applicant's eligibility for certification by the City of Chicago or Cook County.

General Document Guideline Table

Evidence of Ethnicity /Gender/Citizenship	Birth certificate. Membership letter or certificate from an ethnic organization. Tribal certificate. Bureau of Indian Affairs card. Driver's license. Passport. Naturalization papers. Armed service discharge papers (D.D. 214). Baptismal certificate. Any other document that provides evidence of ethnicity.
Fiscal Control	Financial records (tax returns) for at least five (or three, as applicable) previous years. Copy of loan agreements (past and present). Evidence of capital contribution to start-up or to acquire ownership. Titles to equipment and/or vehicles. Copies of bank signature authorization cards. Cancelled checks. Executed contracts.
Ownership	Copies of partnership agreements. Work history of the firm; resumes of principals. Evidence of capital contribution to start-up or to acquire ownership. Articles of Incorporation and by-laws Copy of minutes of board of directors and/or stockholders' meetings. Copy of stock certificates and/or ledgers. Interviews with references and on-site visit. Titles to equipment and/or vehicles. Income tax returns.
Expertise	Resumes of principals. Work history of the firm. Interviews and on-site visit (understanding of business model, pricing, margin, contract negotiations, estimating, pricing). Evidence of contract negotiation and execution. Professional certifications. Licenses. Educational background. Trade/Union Affiliations. Professional Associations.

Determination

Once the Certifying Analyst has reviewed and analyzed the file in accordance with the certification criteria, the analyst will prepare a written certification summary that summarizes the results and recommendation. The Designated Chief Procurement Officer/Director of Contract Compliance, or other designated authority, shall issue his/her determination granting the certification as an MBE or WBE, or an initial determination denying such certification in a timely manner.

No Change Affidavits must be filed annually by the M/WBE firm in accordance with the City of Chicago's and Cook County's rules and regulations.

Recertification - M/WBE firms are required to be re-certified every five years to ensure that each firm still meets the eligibility criteria of the certification program.

Section 12 – Site Interview/Visit

The performance of an on-site visit to the offices, storage facilities, warehouses, or job sites of the firm seeking MWBE certification shall be mandatory for applicants seeking certification in designated industries. These industries are as follows:

- Construction or Construction-related Companies
- Trucking Companies
- Regular Dealers
- Suppliers
- Distributors
- Manufacturers

The participant agencies may require site visits to be performed on any applicant firm in any industry as necessary to satisfy due diligence for making certification determinations.

The on-site visit allows the analyst to conduct an interview while observing the firm's owner(s) in his/her own principal place of business for purposes of substantiating and clarifying submitted documentation while ascertaining the general pattern of operations of the applicant firm. In addition to reconciling information and concerns, the on-site visit will assist in detecting ineligible applicants. The procedures outlined herein provide guidance and direction for completing the on-site interview and visit.

The analyst will follow the procedures listed below:

- Prepare a mix of standardized questions and specific questions related to the applicant firm or use a standardized site visit questionnaire to start with when applicable.

- Any conflicting information brought out during the review should be questioned and clarified by the analyst. Additional questions may be raised during the on-site interview. In addition, the analyst should discuss any concerns with colleagues and/or supervisor(s) prior to the visit.
- Questions should also be devised in a manner that will evoke a coherent response. Open-ended questions are preferred. Examples of typical interview questions include:
 - ✓ "Explain the process used to monitor job costs."
 - ✓ "Describe your corporate duties and responsibilities."
 - ✓ "Explain and describe the bidding and estimating process."

The above questions are typical examples. The questions developed should be unique to the particular file being reviewed. They should be prepared and based on information derived from the applicant file.

- Conduct an on-site visit/interview at the office(s) of the firm and/or any job site(s) in the Reciprocal Participant's jurisdiction or local area in which the firm is working at the time of the eligibility investigation. The principal officers and majority owners of the firm must be interviewed and their resumes and/or work histories reviewed. The interview is concluded after all questions/concerns have been addressed and the administrative process that follows the interview is explained.
- Reconcile any concerns. Prepare the summary report following completion of the analysis and review of the file. The content of the summary report is very important. It must be accurate, complete, and satisfy all areas addressed on the questionnaire and questions regarding an application prior to summarizing in the site visit report.
- The Site Visit Report should include the following:
 - ✓ Name of the firm;
 - ✓ Date and location of the on-site visit/interview;
 - ✓ People present at the interview;
 - ✓ Questions asked and responses received;
 - ✓ Conclusion or summarization of the visit; and

- ✓ Recommendation of areas that require further scrutiny.

Provide the completed site visit report, including summarization and recommendation for further scrutiny, to the analyst processing the certification application.

Section 13 –Denial & Appeal Process

Preliminary Certification Denials – City of Chicago and Cook County Guidelines

An initial determination denying certification or continued eligibility (Preliminary Denial) shall inform the applicant of all material facts and conclusions upon which the decision of the Chief Procurement Officer, Contract Compliance Director, or designated authority was based. It shall also afford the applicant at least fifteen (15) calendar days from the date of the initial determination within which to present, in writing, such evidence as the applicant deems appropriate to respond to the initial determination. All applicant responses to/appeals of a Preliminary Denial for certification or continued eligibility should contain sufficient facts and/or documentation to clearly establish eligibility. Any alterations to material facts or restructuring of applicant subsequent to issuance of the initial determination will be considered pro forma only.

All final actions and/or decisions of the Chief Procurement Officer, Contract Compliance Director, or designated authority with respect to the denial of certification or continued eligibility of any Applicant or MBE/WBE shall be communicated in writing to such applicant or MBE/WBE within thirty (30) business days of the date that a final determination has been made. The decision of the Chief Procurement Officer, Contract Compliance Director, or designated authority shall be final and cannot be appealed. For further detail regarding denials and appeals, refer to the City of Chicago or Cook County rules and regulations.

Reciprocal Certification Denials

Any firm that is certified by one Reciprocal Participant and is denied reciprocal certification by the other Reciprocal Participant shall be subject to the following appeal process. This appeal process does not apply to denials under Section 7 herein.

The Reciprocal Participant that denies reciprocal certification (the “Denying Participant”) shall notify the firm of its denial in writing within ten business days of its decision. The firm shall have twenty business days from the date of notification to submit documents supporting its eligibility for certification under the Denying Participant’s certification standards and to request a hearing (“Notice of Appeal”). Within ten business days of receipt of the firm’s Notice of Appeal, the Denying Participant shall set and notify the firm of a hearing date, which shall be no later than thirty business days from the date of receipt of the Notice of Appeal.

The appeal shall be heard and decided by the Reciprocal Certification Review Committee (the "Review Committee") appointed by the Denying Participant. The members of the Review Committee must be knowledgeable about the certification requirements of the M/WBE Program of the Denying Participant. No one who was involved in the original or reciprocal certification determination or who was a direct or indirect supervisor of a party involved in making either determination is eligible to be a member of the Review Committee.

The firm and the Denying Participant shall have an opportunity to present arguments in support of their respective positions at the hearing. No documents other than those included with the initial application for certification or Notice of Appeal shall be considered. A complete record of the hearing shall be maintained.

The Review Committee shall make and provide a written decision within twenty business days of the hearing to the firm and both Reciprocal Participants. The decision will set forth the basis on which it was made. The decision will inform a firm whose M/WBE reciprocal certification is denied that, under the rules and regulations, it cannot reapply for M/WBE reciprocal certification for a period of twelve months. The decision of the Review Committee shall not be subject to further review.

Section 14 – Certification Investigation/Removal, De-Certification, and Debarred Process

Any certified firm that, for reasons associated with fraudulent, corrupt, or criminal conduct regarding the certification or contract participation of an MBE/WBE, is decertified by, debarred by, disqualified by, or declared ineligible to participate in contracts with the City or County, shall be subject to decertification by the Reciprocal Participants. In the event an MBE or WBE firm is decertified by, debarred by, disqualified by, or declared ineligible to participate in contracts with the City or County for other reasons, each Reciprocal Participant shall communicate all relevant facts and documents to the other.

De-certification or ineligibility of a firm's MBE and/or WBE status will affect the firm's re-entry into the program in accordance with the following schedule:

- Ineligible firms will not be eligible to seek reinstatement of MBE or WBE status for at least one year from the date of the ineligibility notice.
- Firms de-certified due to any false, deceptive, or fraudulent material statement, contracting irregularities, improper conduct in connection with the performance of a contract, and/or criminal activity will be ineligible to seek reinstatement of its MBE, and/or WBE status for at least three years from the date of the de-certification notice.

- Firms de-certified as a result of debarment, or as a result of ineligibility to do business with the City of Chicago or Cook County, will not be eligible to seek reinstatement of MBE or WBE status until such time as the debarment or determination of ineligibility pursuant to Chapter 1-23 is no longer in force.