

# Targeted Business Enterprise Certification Procedures Manual



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# Introduction

The purpose of the City of Madison Targeted Business Enterprise Certification Program is to identify, certify, and list businesses eligible for participation in City of Madison contracting.

## Overview

### Definitions

#### Disadvantaged Business Enterprise (DBE)

Means a business which is at least fifty-one percent (51%) owned and controlled by one of more socially and economically disadvantaged individuals with daily operations controlled by one of more socially and economically disadvantaged owners. Size limitations in 49 CFR Part 26 apply.

#### Minority Business Enterprise (MBE)

Means a business organized for profit, performing a commercially useful function, which is at least fifty- one percent (51%) owned by one or more minority individuals and whose management and daily operations are controlled by one or more minority individuals. There are no size limitations which restrict eligibility for certification as an MBE.

#### Small Business Enterprise (SBE)

Means a business organized for profit, performing a commercially useful function, which is independently owned and controlled with annual average gross receipts of not more than \$4,000,000 over the past three (3) years.

\$1.32 million personal net worth maximum for owner applies.

#### Women Business Enterprise (WBE)

Means a business organized for profit, performing a commercially useful function, which is at least fifty- one percent (51%) owned by one or more women individuals and whose management and daily operations are controlled by one or more women. There are no size limitations which restrict eligibility for certification as a WBE.

### Basic Overview of Certification Types

Types of Program Certifications	Ownership & Control	Size	Goal	Applicable To
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<b>Disadvantaged Business Enterprise (DBE)</b>	51% owned and controlled by one or more socially and economically disadvantaged individuals	See CFR49	13%	Madison Metro procurement and contracting opportunities
<b>Minority Business Enterprise (MBE)</b>	51% owned by one or more racial/ethnic affirmative action group members	None	11% CDBG (combined with WBE). Maximum feasible opportunity for City of Madison	CDBG funded projects. All City of Madison procurement and contracting opportunities.
<b>Women Business Enterprise (WBE)</b>	51% owned by one or more women	None	11% CDBG (combined with MBE). Maximum feasible opportunity for City of Madison	CDBG funded projects. All City of Madison procurement and contracting opportunities.
<b>Small Business Enterprise (SBE)</b>	Race and gender neutral	Average annual gross receipts of \$4 million or less over 3 years. Personal Net Worth of \$1.32 for owners.	10%	All Public Works Contracts estimated to cost \$100,000 or more.

## Single Application Form

Businesses applying for targeted business certification may submit a single application for certification for all City of Madison targeted business programs except DBE. Pursuant to 49 CFR Part 26 the Federal DBE application must be provided for DBE applicants. Based on the information in this application, the City will determine which, if any, targeted business certifications (MBE, SBE, and/or WBE) shall be granted to an individual firm.

## Other Certification Accepted

### Disadvantaged Business Enterprise (DBE)

In lieu of the ***US DOT Certification Application*** a business may submit a current DBE certification issued by: The Wisconsin Unified Certification Program (UCP)

### Small Business Enterprise (SBE)

No other certification for SBE will be accepted in lieu of the ***City of Madison Application***.

### Minority Business Enterprise (MBE) & Women Business Enterprise (WBE)

Dane County MBE and WBE certifications will be accepted.

## Wisconsin Unified Certification Program

Types of Program Certifications	City of Madison	Milwaukee County	Wisconsin Department of Transportation	Dane County
Disadvantaged Business Enterprise (DBE)	X	X	X	X
Minority Business Enterprise (MBE)	X			X
Women Business Enterprise (WBE)	X			X
Small Business Enterprise (SBE)	X			

## Certification Process

Ascertaining the eligibility of prospective targeted business enterprises is an essential component of the ***TBE Program***. The objective is to ensure that only those firms eligible for participation in each targeted business program are certified.

The process consists of three steps to certify that the prospective targeted business is eligible to participate in the respective program(s) for which it has sought certification. The three steps are:

1. Collecting the specified and necessary information from the applicant business;
2. Applying the criteria for eligibility set forth in the respective program; and
3. Certifying or denying that the applicant business is eligible to participate in the TBE program(s).

## Responsibilities

Primary responsibility for certifying individual businesses is vested with the Affirmative Action Division.

## Information Collection

### Application

The application procedure and review process are designed to secure all necessary information to determine applicants' eligibility for certification. The applicant is required to provide evidence in support of fulfilling all of the eligibility requirements as set forth under federal, and/or City of Madison ordinance, and/or this Manual. It is the responsibility of the applicant to provide the information deemed necessary by the certifying agency to determine eligibility. The burden to demonstrate eligibility is upon the applicant, not upon the City.

Applications for certification are standardized forms supplied by the City. Applications are in the form of a Sworn Affidavit or online attestation. The applicant shall submit all pertinent data necessary for the City to render an informed decision regarding the eligibility of the firm. Firms applying for certification must verify their status by making available for review the appropriate books, records, and other documents pertaining to the financial and operational aspects of the firm and its principals. A business wishing to be certified shall cooperate with the City in supplying any additional information requested in order to make a determination. Applicant firms that refuse to provide requested information will be deemed ineligible.

The files shall contain all appropriate documentation in support of the eligibility determination of the firm.

### On-Site Review

On-site reviews are an effective means to verify the applicant's office facilities, operations, and to validate the written application. On-site reviews of the applicant firm's operations will be conducted for every new certification application.

Additionally, on-site reviews may be conducted after a firm is certified as follows:

1. At the time of recertification;
2. Anytime a firm's whose eligibility has come into question (eligibility questions may come from a variety of sources); and
3. Failure of a certified firm to notify the AAD of any material changes to the company.

### Documentation

A case file is maintained on all firms whether certified or denied as eligible to participate. Case files on each individual file contain:

Documentation of all contacts made with firm, verbal or written including, but not limited to:

1. Documents submitted by firm, including all application for certification;
2. On-site review reports
3. Decision letters; and
4. Documentation of any hearings or appeals, formal or informal.

## Eligibility Standards and Determination

The certification process serves to ensure that only businesses that satisfy the respective targeted business enterprise program eligibility criteria in both substance and form are certified. To accomplish this objective and to ensure uniformity and consistency in its application, a set of standards have been established in accordance with the eligibility criteria set forth under the respective targeted business programs.

## Disadvantaged Business Enterprise (DBE) Eligibility Standards

The data submitted by the prospective DBE must be sufficient to enable the City to ascertain whether the DBE qualifications meets each of the eligibility criteria standards as established in 49 CFP Part 26.

## Minority Business Enterprise (MBE) Eligibility Standards

The data submitted by the prospective MBE must be sufficient to enable the City to ascertain whether the MBE qualifications meets each of the eligibility criteria standards. These eligibility criteria standards are:

### Business Status

1. A firm must be in existence, operational, and in business for a profit.
2. The minority owners of the firm must possess the resources or the expertise to operate in the firm's field of work.
3. Firms must provide more than prima facie evidence that they do not exist just on paper and that they were not organized in an attempt to take advantage of project goals.

### Minority Group Membership

To qualify as a minority business, the concern must be under the management and control of one of more minority individuals. By definition, minority individuals are those U.S. citizens, or lawfully admitted permanent residents, who fall into one of the following categories: Black or African Americans, Hispanic or Latinx Americans, Native Americans, Asian/ Pacific Islander Americans and Multi-Racial Americans and is so regarded by that particular minority community.

The following clarifies minority status:

1. Bona fide minority group membership shall be established on the basis of the individual's claim that they are a member of a minority group and are so regarded by that particular minority community.
2. In cases where the racial/ethnic origin is in question, a minority community recognition test should be applied to determine if the applicant has held themselves out to be a member of the minority community and is so recognized by that community.
3. In cases where the appropriate minority community does not exist or is not readily required to prove their disadvantaged status. This process may include documentary evidence from disinterested persons whose ethnic/racial origin is not in question. An example would be consultations with individual members of the minority community in which the applicant claims membership such as community organization leaders, bank officials, and local business development organizations. Other documentary evidence may include birth certifications, naturalization papers, Indian tribal role registration, notarized and sworn statements from disinterested parties and proof of membership

and interaction in recognized minority organizations.

4. If the minority community exists outside the borders of the United States, the minority group membership status is dependent on the following: It is insufficient to be born in or be a citizen of a country with the specified characteristics, but without family ancestry derived from the culture.
5. In cases involving a Native American, any individual who can identify themselves as an authentic American Indian or Alaskan Native properly enrolled, registered or recognized by the specific American Indian tribe, clan, nation or other group or community of American Indians, including any Alaskan Native Regional or village corporation of which he or she claims to be a member, is a Native American. Any other acceptable identification is that the individual American Indian or Alaskan Native remains qualified to participate in any awards of judgments rendered by a Federal or State judicial body on behalf of the American Indian tribe, clan, nation, Alaskan Native Regional Corporation or other legal entity of which the individual claims to be a member. Any State or Federal certification that the individual is a member of any of the foregoing groups of Native Americans is also adequate proof. It is not necessary for the individual American Indian or Alaskan Native to actually reside on a Federal or State Indian reservation to be eligible to participate in the programs.

Proof of Native American ancestry alone is not conclusive evidence of membership in the Native American category if an individual has not held himself or herself out to be a member of one of the above groups, has not acted as a member of a community of such disadvantaged persons, or has not been identified by persons in the population at large as belonging to this disadvantaged group. In such cases, the individual will not be presumed to be socially and economically disadvantaged and shall be required to demonstrate disadvantaged status on an individual basis.

## Ownership

The City looks beyond what is reflected in the ownership documents. Verification can be achieved by conducting on-site reviews, which includes personal interviews and research of the individual(s) and company financial and personnel records. Ownership by a represented minority individual or individuals can be established if:

1. At least 51 percent of the business (or stock if publicly held) was acquired; and
2. Ownership was acquired through real and substantial contributions of expertise, capital, or other tangible personal assets.
  - a. Source of contributions must fall into one of the following categories:
    - i. Assets derived from independently-owned holdings without benefit of a transfer of assets or gift from non-minority person by inheritance of other means; or
    - ii. Award of assets made in a judgement of dissolution of marriage determined on the basis that the property is marital property; or
    - iii. Interest acquired intended to be exercised by the person as an individual, notwithstanding any passive statutory property interest of another. Such contribution must be derived from capital or other means that is individually distant from other ownership interest.

The source of the contributions must be verified. Such verification shall



include stock certificates, bank receipts, corporate minutes and other documents which establish that the contributions are derived from the assets of the individual.

- b. Contributions must be commensurate with the ownership interest:
  - i. Where stock ownership is involved, the minority owner(s) must own at least 51% of each class of voting stock and at least 51% of the aggregate of all classes of stock.
  - ii. Where expertise is used as the contribution to acquire ownership interest, the expertise should be in the applicant firm's critical operations including estimating, bidding, field supervision, etc. The expertise in order to be credited must be:
    - a) Specifically identified and a monetary value (hourly/daily or monthly) attached;
    - b) Proffered for the specific purpose of acquiring stock in the business. Such proffer should not be based on prior service to the firm or which the individual has already been compensated; and
    - c) Documented in the corporate records of the firm. The records must clearly show the contribution of such expertise and its value to the firm.

## Control

To established control the minority owner(s) must demonstrate sufficient expertise specifically in the firm's field of operation to control the overall destiny and the day-to-day operations of the firm. Office management, clerical, or other experience unrelated to the firm's field of operation is insufficient to establish control. This control is comprised of two parts -Managerial and Operational.

1. To have managerial control the minority owner(s) must demonstrate responsibility for the critical areas of the firm's operations and must be able to make independent and unilateral business decisions which guide the future and destiny of the business.  
Examples:
  - a. Negotiations and execution of contracts; and
  - b. Execution (signature) of financial (credit, banking, bonding) transactions and agreements.
2. To have operational control the minority owner(s) must demonstrate that they independently makes basic decisions in daily operations. Absentee or titular ownership by minority owner(s) who do not take an active role in controlling the business is not consistent with the MBE eligibility standards.
  - a. Controls can be demonstrated in various ways:
    - i. Minority owner(s) have complete control of Board of Directors;
    - ii. No formal or informal restriction exist to limit voting power or control of the minority owner(s);
    - iii. No third party agreements restrict control of minority owner(s);
    - iv. Minority owner(s) possess the requisite experience in the firm's field of operations;
    - v. Salary/profits of minority owner(s) are commensurate with their

- ownership interest;
- vi. Minority owner(s) receive at least 51% of any dividends paid by the firm including distribution upon liquidation; and
- vii. Minority owner(s) are entitled to 100% of the value of each share of stock they hold if sold.
- b. The minority owner(s) should possess sufficient assets/resources to control the operation of the firm in the following areas:
  - i. Financial
  - ii. Bonding
  - iii. Supervision
  - iv. Workforce
  - v. Equipment
  - vi. Materials
  - vii. Facilities (office/yard)

## Independence

Key factors in assessing the independence of a firm include:

1. Date business was established;
2. Degree to which financial, equipment leasing, business and other relationships with non-minority firms vary from normal industry practice; and
3. Adequacy of resources of firm and disadvantaged owner(s) to perform specified work. The determination of adequacy of resources demonstrates that the minority owner(s) has sufficient expertise in the firm's field of operation to operate the firm independently.

In addition, the firm should possess adequate assets/resources to operate/function self- sufficiently in the 7 areas previously identified.

A history of consistent contractual ties would be a leading indicator of a relationship between two firms that should warrant further review. A firm must not be inextricably associated with another firm through common ownership, affiliation, sharing of employees, facilities, profits and losses. Such ties form an "umbilical cord" between it and a non-minority firm.

## Other Certification Issues

### Family Run Business

Family run businesses are not automatically ineligible when the minority owner(s) demonstrate that they meet all the eligibility standards. However, the following situations could suggest that a firm would be ineligible:

1. When the non-minority family members share with the minority owner the management and control responsibilities and the non-minority family members possess experience in the firm's field of operations superior to the minority owner; and
2. Applicant firms jointly owned by husband and wife even in those states with community property laws. Such cases shall be treated the same in all states regardless of whether the state has a community property law unless there is some reason to believe that a clearly intended state objective is frustrated by such as position.

## Franchises

Franchises are not automatically ineligible for certification as MBEs. However, the degree of franchiser control over the management, daily business operations and business development of the franchise shall be a factor in determining a franchisee applicant's eligibility for certification as an MBE.

## Women Business Enterprise (WBE) Eligibility Standards

The data submitted by the prospective WBE must be sufficient to enable the City to ascertain whether the WBE meets the eligibility criteria standards. These eligibility criteria standards are:

### Business Status

1. A firm must be in existence, operational and in business for a profit.
2. The female owner(s) of the firm must possess the resources or the expertise to operate in the firm's field of work.
3. Firms must provide more than prima facie evidence that they do not exist just on paper and that they were not organized in an attempt to take advantage of project goals.

### Gender

To qualify as a woman-owned business, the concern must be under the management and control of one or more women.

### Ownership

The City looks beyond what is reflected in the ownership documents. Verification can be achieved by conducting on-site reviews, which includes personal interviews and research of the individual(s) and company financial and personnel records. Ownership by a represented female individual or individuals can be established if:

1. At least 51 percent of the business (or stock if publicly held) was acquired; and
2. Ownership was acquired through real and substantial contributions of expertise, capital, or other tangible personal assets.
  - a. Source of contributions must fall into one of the following categories:
    - i. Assets derived from independently-owned holdings without benefit of a transfer of assets or gift from non-female person by inheritance of other means; or
    - ii. Award of assets made in a judgement of dissolution of marriage determined on the basis that the property is marital property; or
    - iii. Interest acquired intended to be exercised by the person as an individual, notwithstanding any passive statutory property interest of another. Such contribution must be derived from capital or other means that is individually distant from other ownership interest.

The source of the contributions must be verified. Such verification shall include stock certificates, bank receipts, corporate minutes and other documents which establish that the contributions are derived from the assets of the individual.

- b. Contributions must be commensurate with the ownership interest:
  - i. Where stock ownership is involved, the female owner(s) must own at least 51% of each class of voting stock and at least 51% of the aggregate

of all classes of stock.

- ii. Where expertise is used as the contribution to acquire ownership interest, the expertise should be in the applicant firm's critical operations including estimating, bidding, field supervision, etc. The expertise in order to be credited must be:
  1. Specifically identified and a monetary value (hourly/daily or monthly) attached;
  2. Proffered for the specific purpose of acquiring stock in the business. Such proffer should not be based on prior service to the firm or which the individual has already been compensated; and
  3. Documented in the corporate records of the firm. The records must clearly show the contribution of such expertise and its value to the firm.

## Control

To establish control the female owner(s) must demonstrate sufficient expertise specifically in the firm's field of operation to control the overall destiny and the day-to-day operations of the firm. Office management, clerical, or other experience unrelated to the firm's field of operation is insufficient to establish control. This control is comprised of two parts- Managerial and Operational.

1. To have managerial control the female owner(s) must demonstrate responsibility for the critical areas of the firm's operations and must be able to make independent and unilateral business decisions, which guide the future and destiny of the business. Examples:
  - a. Negotiations and execution of contracts; and
  - b. Execution (signature) of financial (credit, banking, bonding) transactions and agreements.
2. To have operational control the female owner(s) must demonstrate that they independently makes basic decisions in daily operations. Absentee or titular ownership by women owner(s) who do not take an active role in controlling the business is not consistent with the WBE eligibility standards.
  - a. Control can be demonstrated in various ways:
    - i. Female owner(s) have complete control of Board of Directors;
    - ii. No formal or informal restriction exist to limit voting power or control of the female owner(s);
    - iii. No third party agreements restrict control of female owner(s);
    - iv. Female owner(s) possess the requisite experience in the firm's field of operations;
    - v. Salary/profits of female owner(s) are commensurate with their ownership interest;
    - vi. Female owner(s) receive at least 51% of any dividends paid by the firm including distribution upon liquidation; and
    - vii. Female owner(s) are entitled to 100% of the value of each share of stock they hold if sold.
  - b. The female owner(s) should possess sufficient assets/resources to control the operation of the firm in the following areas:
    - i. Financial

- ii. Bonding
- iii. Supervision
- iv. Workforce
- v. Equipment
- vi. Materials
- vii. Facilities (office/yard)

## Independence

Key factors in assessing the independence of a firm include:

1. Date business was established;
2. Degree to which financial, equipment leasing, business and other relationships with non-female firms vary from normal industry practice; and
3. Adequacy of resources of firm and female owner(s) to perform specified work. The determination of adequacy of resources demonstrates that the female owner(s) has sufficient expertise in the firm's field of operation to operate the firm independently.

In addition, the firm should possess adequate assets/resources to operate/function self-sufficiently in the 7 areas previously identified.

A history of consistent contractual ties would be a leading indicator of a relationship between two firms that should warrant further review. A firm must not be inextricably associated with another firm through common ownership, affiliation, sharing of employees, facilities, profits and losses. Such ties form an "umbilical cord" between it and a non-woman owned firm.

## Other Certification Issues

### Family Run Business

Family run businesses are not automatically ineligible when the female owner(s) demonstrate that they meet all the eligibility standards. However, the following situations could suggest that a firm would be ineligible:

1. When the male family members share with the female owner the management and control responsibilities and the male family members possess experience in the firm's field of operations superior to the female owner; and
2. Applicant firms jointly owned by husband and wife even in those states with community property laws. Such cases shall be treated the same in all states regardless of whether the state has a community property law unless there is some reason to believe that a clearly intended state objective is frustrated by such as position.

### Franchises

Franchises are not automatically ineligible for certification as WBEs. However, the degree of franchiser control over the management, daily business operations and business development of the franchise shall be a factor in determining a franchisee applicant's eligibility for certification as a WBE.

## Small Business Enterprise (SBE) Eligibility Standards

The data submitted by the prospective SBE must be sufficient to enable the City to ascertain whether the SBE meets the eligibility criteria standards. These eligibility criteria standards are:

## Business Status

1. A firm must be in existence, operational and in business for a profit.
2. The owner(s) of the firm must possess the resources or the expertise to operate in the firm's field of work.
3. Firms must provide more than prima facie evidence that they do not exist just on paper and that they were not organized in an attempt to take advantage of project goals.

## Small Business Size

### Annual Gross Receipts

The average annual gross receipts for a firm and its affiliates for the previous three (3) fiscal years must not exceed \$4,000,000:

Annual receipts for a firm in business less than three complete fiscal years is Computed by:

$$(\text{Total Receipts} \times \text{Weeks in Business}) / 52 = \text{Average Annual Receipts}$$

### Personal Net Worth

\$1.32 million personal net worth maximum for the owner.

### Affiliates

In determining average annual gross receipts, the revenues of "affiliates" of the firm are included as well as those of the applicant firm itself. "Affiliate" is defined as: "Concerns are affiliate of each other when either directly or indirectly (1) one concern controls or has the power to control the other, (2) a third-party (or parties) controls or has the power to control both, or (3) an identify of interest between or among parties exist such that affiliation may be found". In determining whether affiliation exists, consideration shall be given to such factors as:

1. Common Ownership
2. Common Management
3. Contractual Relationships

## Independence

Key factors in assessing the independence of a firm include:

1. Date business was established;
2. Degree to which financial, equipment leasing, business and other relationships with other firms vary from normal industry practice; and
3. Adequacy of resources of firm and owner to perform specified work. The determination of adequacy of resources demonstrates that the majority owner(s) has sufficient expertise in the firm's field of operation to operate the firm independently.

In addition, the firm should possess adequate assets/resources to operate/function self-sufficiently in the 7 areas previously identified.

A history of consistent contractual ties would be a leading indicator of a relationship between two firms that should warrant further review. A firm *must not* be inextricably associated with another firm through common ownership, affiliation, sharing of employees, facilities, profits and losses. Such ties form an "umbilical cord" between it and a non-disadvantaged firm.

## Other Certification Issues

### Franchises

Franchises are not automatically ineligible for certification as SBEs. However, the degree of franchiser control over the management, daily business operations, and business development of the franchise shall be a factor in determining a franchisee applicant's eligibility for certification as an SBE.

## Eligibility Determination

The City shall apply eligibility standards accurately, uniformly and consistently to ensure that only bona fide firms participate. The staff team's decision making process is clearly defined from the procedural steps of the review, analysis, and ruling process to the assignments of the interdepartmental personnel roles and responsibilities. It is crucial that this process receive the endorsement and continued support of the top-level management within the City, inclusive of those decisions rendered through the established process.

A thorough, detailed, and complete analysis of the application file with the supporting documents shall be conducted on each firm. The applicant is entitled to prompt action on its application and to be duly informed when any part of the application is deficient and/or incomplete with an acknowledgment that the application will be held pending further action by the application. Following complete analysis of the information provided and possible further field review, a formal report is prepared setting forth a recommendation to either approve or deny the application. This report must be part of the formal package used by the Staff Team to formally approve or deny certification.

To assure that the certification process has been effectively concluded, all available evidence is documented, reviewed by the City, and becomes a part of the case file documentation supporting the decision.

## Due Process

Courts might not uphold a decertification action where the party decertified has not been afforded the opportunity to be heard. The City's procedure must provide notice to the decertified firm of its appeal rights. The procedure for denial of certification or decertification shall provide for written notice of the proposed action and the basis therefore together with an opportunity to request a hearing. The hearing itself need not be formal and adversarial, but shall provide the applicant the opportunity to present evidence and arguments in support of the status claimed and to furnish a record which is reviewable by a court.

## Commercially Useful Function and Certification Eligibility

Certification and commercially useful function are two separate and distinct issues. Certification decisions address the nature of a firm's ownership and structure. Commercially useful function primarily concerns the role a firm has played in a particular transaction. Therefore, firms may not be decertified solely on their failure to perform a commercially useful function. A targeted business enterprise's repeated failure to perform a commercially useful function however, may raise questions regarding the firm's independence, ownership, and control. In such instances the City shall verify the firm's certification eligibility. The City's certification decision shall be based solely on whether the firm meets the particular targeted business enterprise certification eligibility

standards. The funding entity shall make all decisions as to whether or not a targeted business enterprise function on a particular contract is commercially useful.

## Annual Recertification

The City's certification program provides for the annual recertification of all firms. The application for recertification is a standardized form supplied by the City. The application is in the form of a Sworn Affidavit or online attestation. The responsibility to submit the annual recertification application is upon each certified firm.

## Impact of Fronts, Frauds, and Shams

Ensuring that participating firms meet eligibility criteria is crucial to maintaining the integrity of any targeted business enterprise program. When one becomes aware of information suggesting that certified firms may in fact be ineligible, further examination of the record shall be undertaken. The intent is not to impose an impractical requirement on the staff team to conduct certification investigations on all targeted business enterprises. Rather, it is intended to allow for such an examination in instances which appear to warrant it.

1. The two most prevalent ways that fraud and abuse occur are:
  - a. An ineligible firm becomes certified based on false, inaccurate or misleading information; or
  - b. A legitimately certified targeted business enterprise fails to perform a commercially useful function.
2. It is through such activities as applicant certification, recertification, and verification by active monitoring and program compliance reviews that the impact of fronts, frauds, and shams can be best neutralized. The important message to be communicated is that such abuses will not be tolerated. The impact of any type of fraud can be severe with consequences such as:
  - a. Distorting actual achievement of program;
  - b. Eroding program credibility;
  - c. Stealing contracting opportunities from bona fide targeted business enterprise; and
  - d. Creating embarrassment for the participating government partners through media exposure.

## Directory

The City shall compile and maintain a directory to facilitate identifying targeted business enterprises with possible capabilities relevant to business opportunities of the City of Madison and its prime contractors.

The directory will be maintained by the City of Madison's Contract Compliance Unit. It will be computerized and made available for City employees, bidders, and proposes to use in their efforts to meet targeted business enterprise program goals.



The Directory will contain the following information about each targeted business enterprise:

1. Name, address, and telephone number of firm;
2. Type of work/service provided;
3. Contact persons; and
4. Certification awarded.

## Denial/Appeal Process

Based upon a review of the Certification Affidavit and the on-site visit a firm found not to meet any one or more of the eligibility criteria established for the DBE, MBE, WBE, or SBE Program will be determined ineligible for certification in that respective program. Such decisions will result in the applicant receiving a letter of denial for certification as a DBE, MBE, WBE, and/or SBE (whichever is applicable) from the City. Program Letters of Denial are final as to the decision and response to the request for certification.

Firms who believe they have been wrongly denied DBE certification may appeal in writing no later than 180 days from the date of denial to the Secretary, U.S. Department of Transportation. The Secretary will ensure that a prompt investigation is made pursuant to prescribed DOT Title VI investigation procedures.

Firms who believe they have been wrongly denied MBE, WBE, and/or SBE certification may appeal in writing no later than 30 days from the date of denial to Norman Davis, Director of the City of Madison Department of Civil Rights.

Norman Davis, Director  
City of Madison Department of Civil Rights City-County Building, Room 523  
210 Martin Luther King, Jr. Blvd.  
Madison, Wisconsin 53703  
(608) 267-8759  
[www.cityofmadison.com/dcr](http://www.cityofmadison.com/dcr)  
[ndavis@cityofmadison.com](mailto:ndavis@cityofmadison.com)

The Director will ensure that a prompt investigation is made pursuant to prescribed investigation procedures.

## Third Party Challenges to Eligibility of Certified Firms

1. Any third party may challenge the status of any individual if that individual is an owner of a firm certified by or seeking certification from the City as a DBE, MBE, WBE, and/or SBE firm. The challenge shall be made in writing to:

Norman Davis, Director  
City of Madison Department of Civil Rights City-County Building, Room 523  
210 Martin Luther King, Jr. Blvd.

Madison, Wisconsin 53703  
(608) 267-8759  
[www.cityofmadison.com/dcr](http://www.cityofmadison.com/dcr)  
[ndavis@cityofmadison.com](mailto:ndavis@cityofmadison.com)

2. With its letter, the challenging party shall include all information available to it relevant to a determination of whether the challenged party is in fact eligible to qualify as a DBE, MBE, WBE, and/ or SBE firm.
3. The Director shall determine, based on the information provided by the challenging party and Contract Compliance Unit, whether there is reason to believe that the challenged party does in fact meet the DBE, MBE, WBE, and/or SBE qualifications.
4. If the Director determines that there is reason to believe that the challenged party is a qualified participant, the recipient shall so inform the challenging party in writing. This terminates the proceeding.
5. If the Director determines that there is reason to believe that the challenged party does not qualify as a DBE, MBE, WBE, and/or SBE, the recipient shall begin a proceeding as provided in paragraphs 6, 7, and 8 of this section.
6. The Contract Compliance Unit shall notify the challenged party in writing that their status as a DBE, MBE, WBE, and/or SBE has been challenged. The notice shall also require the challenged party to provide to the recipient, within a reasonable time, information sufficient to permit the recipient to evaluate their status as a DBE, MBE, WBE, and/or SBE firm.
7. The Director shall evaluate the information available to it and make a proposed determination of the qualifications of the challenged party. The Contract Compliance Unit shall notify other parties of this proposed determination in writing, setting forth the reasons for its proposal. The Director shall provide an opportunity to the parties for an informal hearing, at which they can respond to this proposed determination in writing and in person.
8. Following the informal hearing, the Director shall make a final determination. The Contract Compliance Unit shall inform the parties in writing of the final determination setting forth the reasons for its decisions.

During the pendency of a challenge under this section, the presumption that the challenged party is a qualified firm shall remain in effect.

Once the Director has made a final decision on a challenged matter that determination goes into effect immediately with respect to all contracts. The decision shall be final for all contracts being let at the time of the final determination.

## Contact Information

Department of Civil Rights  
Affirmative Action Division  
City County Building, Room 523

210 Martin Luther King Junior Boulevard  
Madison, WI 53703  
Phone: 608-266-4190  
Website: [www.cityofmadison.com/dcr](http://www.cityofmadison.com/dcr)