

# Erie County & City of Buffalo Joint Certification Committee

## Rules and Regulations

### 1. Membership

- A. The Minority Business Enterprises and Women Owned Business Enterprises (MBE/WBE) Officer for the County of Erie (County Coordinator), a person designated by the Buffalo Sewer Authority, a person designated by the City of Buffalo, a person designated by the Buffalo Municipal Housing Authority and a person designated by the Buffalo Board of Education, shall be members of the Joint Certification Committee (JCC).
- B. Each of the above listed agencies shall designate an alternate member to serve in the event the person so designated by such agency is unable to attend meetings of the committee.
- C. The Joint Certification Committee shall have a chair, who shall be a member of said committee.

### 2. Purpose

- A. The purpose of the Joint Certification Committee is to certify bona fide Minority Business Enterprises and Women Owned Business Enterprises to achieve equity in contracting. This certification will be recognized by all participating municipalities, authorities, etc. Certification by the Joint Certification Committee will certify that the business enterprise in question is legitimately owned, operated and controlled by minority persons or by women.

### 3. Procedure for the submission of a certification application

- A. A Joint Certification Committee MBE / WBE application, pertinent documents and disclosure affidavit is to be completed and submitted to the five (5) Voting Members of the Joint Certification Committee by the proposed enterprise.
- B. Whenever such completed application, documents and affidavit is received by a member of the Joint Certification Committee, copies of said completed application, documents and affidavits are to be sent to all five (5) voting members of the Committee, along with all pertinent documents.

- C. The affiant will be notified by the County Coordinator within two (2) business days from the time the application is received. If additional information is needed to complete application, the affiant will be notified by the County Coordinator within two (2) business days from the time application was received.
- D. Only completed applications will be scheduled for certification meetings. A complete application is an application that has all the pertinent documents specified on documents checklist.
- E. The affiant will be notified within ten (10) business days by mail of the date, time and place on which he or she is to be interviewed by the Joint Certification Committee.
- F. If a business enterprise misses two (2) appointments for certification meeting without notifying the Joint Certification Committee, the business enterprise in question shall wait six (6) months and reapply for certification.
- G. If a business enterprise is denied certification, the business enterprise shall wait six (6) months before reapplying for certification herein.
- H. If a business enterprise's application is incomplete, the business enterprise shall complete the application within thirty (30) business days or the business enterprise shall start process again.

#### **4. Joint Certification Committee Meetings**

- A. The Joint Certification Committee meets on the Third Wednesday of every month. The Joint Certification Committee shall meet as often as necessary to execute its purpose, as stated herein. The Committee shall consider all completed applications for certification and re-certification which are submitted prior to the scheduled meeting.

#### **5. Criteria for Certification Standards & Eligibility**

In order to be certified as an MBE or a WBE, a business enterprise must meet the following requirements;

1. If applying for WBE certification, business must be at least 51% owned, controlled and operated by a woman or women.
2. If applying for MBE certification, business must be at least 51% owned, controlled and operated by someone in the following ethnic groups:  
**Black** – *persons having origin from any of the black African racial groups*

**Hispanic** – *person of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race*

**Asian- Pacific** – *persons having origins from Far East, Southeast Asia or the Pacific Islands*

**Asian Indian Subcontinent**– *persons having origins from the Indian subcontinent*

**Native Americans**- *persons having origins in any of the original peoples of North America. Applicant must show proof of ethnicity.*

3. The proposed enterprise must be an independent business concern and at least 51% is owned by minority group members /or women, who exercise control of that business and actively seeking contracts or orders and regularly and actively Performing business activities. It cannot be owned by multiple entities, such as partnerships, ventures, etc.
4. That the business has functioned for at least 1 year or that it has an observable history of it functioning and that it has filed its first federal return for the business.
5. That the minority / women ownership has a knowledge and understanding of the day-to-day operations of the business.
6. The contribution of the minority / women owner must be proportionate to their equity interest in the business enterprise.
7. The minority member / woman must devote time on a daily basis to the business.
8. There can be no restrictions put on the minority member or woman in the control of the business, bank accounts, negotiations, lease agreements, loan agreements, credit agreements, contracts, etc.
9. For the purpose of ownership, a trust fund is a legal entity in itself and can not be counted as ownership.
10. The business cannot be a publicly held company.
11. The business cannot be a subsidiary or division of a parent company unless the parent company is deemed certifiable. The business can not be owned by a holding company unless the holding is deemed Certifiable.
12. If a business enterprise is asking for certification as a supplier, business enterprise shall submit proof of flowing inventory, letters from manufacturers, warehouse space, delivery vehicles, etc.

13. The business enterprise in question must have an operating office in the County of Erie and must be registered in the County of Erie (if sole proprietorship), if incorporated, it must be registered with New York State.
14. The business in question must be legitimately owned. The Joint Certification Committee reserves the right to make on-site visits, with or without notice, to both proposed and certified MBE and WBE. The Joint Certification Committee further reserves the right to inspect any documents which the Joint Certification Committee deems necessary to assist in the certification process.
15. Any franchise applying for certification as a MBE or WBE cannot have restrictions on the minority member or woman member in the control of business, bank accounts, contract negotiations, lease agreements, loan agreements, credit agreements, etc.

## **6. Sanctions for fraud or misrepresentation**

When it is found that, an MBE / WBE has committed fraud or misrepresented the truth, the enterprise in question will be denied certification or their certification will be revoked. The business enterprise in question will have thirty (30) business days to appeal decision as stated in Section (9).

## **7. Term of Certification**

- A. When the Joint Certification Committee certifies a business enterprise as a bona fide MBE or WBE, a certification letter will be sent by the County Coordinator within two (2) business days to such business enterprise.
- B. The Joint Certification Committee's certification is issued for a period of three (3) years. The business enterprise will then have to renew the certification.
- C. The Joint Certification Committee will not issued dual certification. Certification will be either MBE or WBE.
- D. The Joint Certification Committee does not issue temporary certification.

- E. Certification letter specifies the trade(s) for which a business enterprise is certified. Other trades performed by the business enterprise will not count toward local goals.

**8. Procedures Governing Denial of Application for Certification or Revocation of Certification**

- A. When a MBE / WBE application is denied, a notice will be sent within seven (7) business days to applicant informing applicant of the Joint Certification Committee's decision. If applicant does not agree with Committee's decision, the applicant then has thirty (30) business days to file a written request for a hearing.
- B. When it is found that an MBE or a WBE which has been previously certified by the Joint Certification Committee is in violation of one or more of the applicable Federal, State and/or local guidelines, the Joint Certification Committee may suspend certification of said MBE or WBE by sending Notice of Suspension to the business address of said MBE or WBE which is listed with the Joint Certification Committee. Said notice shall contain;
  - 1. Reason for suspension
  - 2. Notice of hearing and the date, time and place thereof and
  - 3. Information requested to be produced at said hearing.
- C. If the Joint Certification Committee is satisfied after said hearing that the suspended MBE / WBE is legitimately owned and operated in accordance with the applicable Federal, State and/or local guidelines, the Joint Certification Committee shall restore the suspended certification.
- D. If the Joint Certification Committee is not satisfied after said hearing that the MBE / WBE is legitimately owned and operated in accordance with said guidelines, the Joint Certification Committee may revoke the certification of said business enterprise.
- E. Any business enterprise that is denied certification may reapply for certification under Section 3 herein.

## **9. Appeals Process**

- A. When a business enterprise has been denied certification or re-certification, such business enterprise has a right to appeal the decision made by the Joint Certification Committee.
- B. Business enterprise must send a written request to Joint Certification Committee within thirty (30) business days from receiving denial letter.
- C. Business enterprise's request will be review by Joint Certification Committee and business enterprise will then be scheduled to appear in front of the committee.

## **10. Confidentiality of Information**

All information received by the Joint Certification Committee will be kept strictly confidential. All files are secured for privacy and protection.

## **11. Data Base of Certified MBE / WBE Companies**

Once a business enterprise is certified by Joint Certification Committee, the business enterprise name and pertinent information will be listed on database of certified MBE / WBE companies within seven (7) business days. Such list can be found on the internet at [www.erie.gov](http://www.erie.gov). The business enterprise is shall notify Joint Certification Committee of any changes.

## **12. Process and Criteria for re-certification**

### **A. Process for re-certification**

- 1. Any business enterprise interested in being re-certified, must submit a written request for re-certification as a MBE /WBE to the Joint Certification Committee.
- 2. The business enterprise must submit written request indicating whether any changes in ownership or operations have occurred and proof of those changes should be attached to request.
- 3. Tax returns for previous two (2) years must be attached to request for review.

4. Any business enterprise requesting re-certification should submit proof that the business enterprise has been operational and that the business enterprise performed work in the certified field within the last three (3) years.
5. Joint Certification Committee will review request and documents submitted and make a determination on whether to issue a re-certification.
6. If re-certification is denied, the business enterprise has thirty (30) business days to appeal decision by following Joint Certification Rules & Regulations (Section 8 A)

## **B. Criteria for re-certification**

Any business enterprise applying for re-certification as a MBE / WBE must meet the following criteria:

1. The business enterprise in question continues to be an independent business concern and at least 51% continues to be owned by a minority or woman who continues to exercise control of that business.
2. The business enterprise in question has functioned and has been operational for the last three (3) years prior to applying for re-certification.
3. The business enterprise in question has filed federal tax return for previous three (3) years.
4. The business enterprise in question continues to meet guidelines as specified in Joint Certification Committee Rules and Regulations (Section 12 B)

## **13. JCC Rules & Regulations Review Process**

- a. Rules & Regulations can be amended by simple majority – currently (3/5) of existing Joint Certification Committee members.
- b. Rules & Regulations imply meeting operating rules are governed by Robert Rules of Order.
- c. Changes to Rules & Regulations are not retroactive. They become effective at an explicit time or next meeting of JCC, whichever is sooner.
- d. If any rule or regulation is held by a court of competent jurisdiction to be invalid or void or unenforceable, the remainder of the rules and regulations shall in no way be

affected, impaired, or invalidated, and to the extent permitted by applicable law, any such rule or regulation shall be restricted in applicability or reformed to the minimum extent required for such to be enforceable.

- 14.** Joint Certification Committee Rules & Regulations have been modified by the Joint Certification Committee as of August 18, 2010. The new Rules and Regulations for certifications and re-certifications will become effective as of January 1, 2011. If a business enterprise's re-certification date is after January, 1, 2011, the new Rules and Regulations will apply to the company's re-certification.