



Washington Metropolitan Area Transit Authority
STANDARD OPERATING PROCEDURE

Procedure or Instruction Number: SOP #22-01
Small Business Programs Certification

January 5, 2023

Revision History

Revision No.	Revision Date	Reviser/ Author	Document Section No. (if applicable) or N/A	Description of Changes
0	01/05/23	N/A	Small Business Programs	Initial Release

Table of Contents

1	Scope	4
2	Purpose	4
3	Definitions	4
4	Acronyms	5
5	Responsibilities	6
6	Process Steps	6
7	Safety Management	9
8	References	10
9	Records	10
10	Appendices, Attachments and/or Exhibits	10
11	Approvals	11

1 Scope

- 1.1 This procedure applies to the Washington Metropolitan Area Transit Authority's (WMATA) Small Business Programs Office.
- 1.2 This document has been created in compliance with the Quality Management System Plan (QMSP) and Policy Instructions 1.1 (Document Governance and Hierarchy) and 6.1 (Records Management).

2 Purpose

The purpose of this Standard Operating Procedure (SOP) is to provide instruction on how to evaluate and approve/deny certification applications for Federal Programs using WMATA's Contract Lifecycle Management (CLM) system.

3 Definitions

- 3.1 **Disadvantaged Business Enterprise (DBE):** a for-profit Small Business Concern that is at least 51% owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51% of the stock is owned by one or more such individuals; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- 3.2 **Disadvantaged Business Enterprise Directory:** referred to as the District of Columbia Unified Certification Program (DCUCP) Directory; a complete listing of all contractors certified by the DCUCP. All WMATA Certification Program (WCP) approved businesses are also listed in the Directory, which is available to the public on wmata.com.
- 3.3 **District of Columbia Unified Certification Program (DCUCP):** the unified certification program mandated by 49 CFR § 26.81 between two Federal transit recipients (Metro and the DC Department of Transportation).
- 3.4 **Minority Business Enterprise (MBE):** a business must be at least 51% owned and controlled by one or more socially-and economically-disadvantaged individuals. Under current State law, an individual is presumed to be socially and economically disadvantaged if that individual belongs to one of the following groups: African Americans, Hispanic Americans, Asian Pacific Americans, Subcontinent Asian Americans, Native Americans, and Women. Persons who own and control their business but are not members of one of the above groups, also may be eligible for MBE certification if they establish their social and economic disadvantage.
- 3.5 **North American Industry Classification System (NAICS):** is a classification of business establishments by type of economic activity (process of production). It is used by government and business in Canada, Mexico, and the United States of America.

3.6 Small Business Enterprise (SBE): a for-profit small business concern that is at least:

(a) 51% owned by one or more individuals whose personal net worth and adjusted gross income do not exceed the amount stated in 49 CFR Part 26.67, or in the case of any publicly owned business, at least 51% of its stock is owned by one or more individuals whose personal net worth and adjusted gross income do not exceed the amount stated in 49 CFR Part 26.67;

(b) Management and daily business operations are controlled by one or more of the owners whose personal net worth and adjusted gross income do not exceed the amount stated in 49 CFR Part 26.67; and

(c) The personal net worth of the owner must not exceed \$1,320,000.

3.7 Personal Net Worth (PNW): the net assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include the individual's equity in his or her primary residence. For purposes of Metro's Disadvantaged Business Enterprise (DBE)/Minority Business Enterprise (MBE) Program certification, personal net worth is set at \$1.32 million and applies to the majority (51%) owners of businesses applying for DBE/MBE certification. An individual's net worth is simply the value that is left after subtracting liabilities from assets. It only includes the DBE's/MBE's own share of assets held separately, jointly, or as community property with the individual's spouse and excludes a) an individual's ownership interest in the applicant firm; b) an individual's equity in his or her primary residence; and c) Federal Tax and penalties, if applicable, that would accrue if retirement savings or investments (e.g., pension plans, Individual Retirement Accounts, 401(k) accounts, etc.) were distributed at the present time.

3.8 Presumption of disadvantage (DBE): according to federal guidelines, it is rebuttably presumed that citizens of the United States (or lawfully admitted permanent residents) who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or other minorities found to be disadvantaged by the US Small Business Administration (SBA), are socially and economically disadvantaged individuals.

3.9 Uniform Certification Application (UCA): an application submitted by first time applicants to obtain their Disadvantaged Business Enterprise certification.

4 Acronyms

4.1 CFR – Code of Federal Regulations

4.2 CLM – Contract Lifecycle Management

4.3 DBE - Disadvantaged Business Enterprise

4.4 DCUCP - District of Columbia Unified Certification Program

- 4.5 **DOT** – Department of Transportation
- 4.6 **MBE** – Minority Business Enterprise
- 4.7 **NAICS** - North American Industry Classification System
- 4.8 **OC** - Oversight Committee
- 4.9 **PNW** – Personal Net Worth
- 4.10 **QMSP** – Quality Management System Plan
- 4.11 **SBAN** – Small Business Analyst
- 4.12 **SBE** - Small Business Enterprise
- 4.13 **SOP** – Standard Operating Procedure
- 4.14 **UCA** – Uniform Certification Application
- 4.15 **UCP** – Unified Certification Program
- 4.16 **WMATA** – Washington Metropolitan Area Transit Authority

5 Responsibilities

- 5.1 The **Small Business Programs Office Director** is responsible for developing a monitoring system and enforcement mechanism to ensure that DBEs, SBEs and MBEs are certified with the DCUCP pursuant to 49 CFR Part 26.
- 5.2 The **Small Business Programs Office Manager** is responsible for ensuring all direct reports are aware of all procedures referenced in this SOP and developing and reviewing all training requirements for the implementation of this SOP.
- 5.3 The **Small Business Analyst (SBAN)** is responsible for processing, evaluating, and recommending DBE/SBE/MBE certifications in accordance with 49 CFR Part 26. The SBAN shall also monitor the Small Business Dashboard daily to determine if any new certification applications have been received.

6 Process Steps

6.1 CERTIFICATION

The following subsections set forth the Small Business Programs Office procedures that comport with 49 CFR Part 26, Subparts D (Certification Standards) and E (Certification Procedures).

6.2 APPLICATION ASSIGNMENT

Once a firm submits a Uniform Certification Program Application through WMATA's Supplier Portal, the SBAN pulls the application from the Small Business Dashboard, conducts a preliminary review of the application materials, and assigns an SBAN to the firm.

6.3 APPLICATION REVIEW PROCESS

Following the company selection, the assigned SBAN shall perform the following steps to process a DBE application in the CLM system:

- 6.3.1 Go to the following website to perform a company and minority owner(s) search:
<https://www7.transportation.gov/civil-rights/disadvantaged-business-enterprise/denials-appeals>.
- 6.3.2 Ensure that the firm is not in the Decertified DBE, Denials, or DBE Appeals Decisions Database. Save a screenshot under Comments & Attachments.
- 6.3.3 Review the documents submitted by the firm to verify that the information contained therein meets the standards of 49 CFR Part 26.
- 6.3.4 In accordance with 49 CFR Part 26.83 (l), each applicant shall be advised in writing within thirty (30) days from receipt of the application whether the application is complete and suitable for evaluation and, if not, what additional information or action is required.
- 6.3.5 If the application is incomplete or required documentation is missing, send an initial email to the firm requesting the missing information within ten (10) business days.
 - Cite the missing documents and information in the email and request that the company submit them.
 - Click the Comments & Attachments link and annotate in the Comments Box that an email requesting missing documentation has been sent to the applicant and cite the date the email was sent.
- 6.3.6 Following the first ten (10) business days, if the missing information is not submitted, send a second email notifying the firm that this is the second request for missing information and it must be received within the next 10 business days or the application will be cancelled.
- 6.3.7 Following the second 10 business days' notice, if the missing information was not submitted, send the firm a Cancellation Letter due to their failure to submit all documents requested in the application. If the application packet is now complete, proceed to the document assessment procedure below.

6.4 DOCUMENTATION REVIEW

- 6.4.1 Should the documents submitted be incomplete or incorrect, another email request shall be sent to the firm.

- 6.4.2 Should the documents and information be correct and accurate; proceed with an on-site visit.

6.5 ONSITE REVIEW

The second phase of the WMATA DBE Certification Intake Process entails conducting an onsite review for firms located in the District of Columbia only, which is a formal interview conducted to verify a DBE applicant's location, personnel and operations, and is used to substantiate or clarify information and documentation contained in the applicant file as well as to review business and financial records.

6.6 CERTIFICATION DETERMINATION

The following procedures detail the steps for development and submission of the DBE Evaluation Report as well as the subsequent review and issuance of a determination:

6.6.1 EVALUATION REPORT

Once the applicant's file has been evaluated and all documentation received and reviewed, the SBAN shall complete the following within five (5) days of completing the onsite review:

- 6.6.1.1 Draft a DBE Evaluation Report.
- 6.6.1.2 Present the Evaluation Report to the DCUCP Committee.

6.6.2 HOME STATE CERTIFICATION

In accordance with 49 CFR Part 26.5, an application shall be deemed Home State if the firm maintains their principal place of business within the District of Columbia. Firms in Maryland or Virginia shall be required to be certified in their home state before applying to be certified by the DCUCP.

6.6.3 INTERSTATE CERTIFICATION

Firms which have obtained DBE certification with their own home state Unified Certification Program (UCP) may apply for DBE certification with the DCUCP. The applicant firm must apply online and submit a copy of the home state letter of certification which shall include the following: (1) the DBE identification number; (2) NAICS Codes authorized to use; and (3) date of certification. If the firm indicates that it is not certified in its home state or fails to submit a certification letter, its application will not be processed pursuant to 49 CFR Part 26.81(d).

6.7 CERTIFICATION ELIGIBILITY STATUS OVERVIEW

To verify a firm's continued DBE eligibility status on an annual basis, the Department of Transportation (DOT) requires a sworn declaration known as the DBE No Change Affidavit Form, which notifies WMATA that no changes occurred that may affect the firm's DBE certification eligibility. Submission of this information is required to maintain DBE certification with the DCUCP.

6.7.1 THREE-YEAR AUDIT REVIEW

Every three (3) years, on the anniversary of the date of the firm's certification, the assigned SBAN shall perform a Three-Year Audit Report. The firm shall submit:

- No Change Affidavit (notarized)
- Most Recent Business Federal Tax Returns
- Most Recent Personal Federal Tax Return
- Home State Certification Letter
- Three-Year Audit Report Form
- Personal Net Worth Statement

If the firm is located in the District of Columbia, an on-site visit must be conducted, and a Three-Year On-site form shall be completed. Once the report is finalized it must be approved by the Disadvantaged Business Enterprise Liaison Officer (DBELO). Once the approval is complete, a certification letter must be generated through CLM and sent to the applicant firm.

6.8 CERTIFICATION DENIALS

The following subsections detail the governance structure for denial of a firm's DBE certification application, as well as, outlining the steps for initiating and executing a denial.

- 6.8.1 If the home-state firm is recommended for denial into the DCUCP's DBE Program based on eligibility criteria, (Proposed Denial Letter-General) will be provided to the firm outlining the reasons for denial, specifically referencing the evidence in the application. Proposed denial letters will be submitted to the DCUCP Committee for informational purposes, discussion if necessary, and a vote will be taken to approve the proposed denial letter.
- 6.8.2 If a firm (whether home-state or out-of-state) is recommended for denial based on failure to provide additional information requested by the investigator, (Proposed Denial Letter-Failure to Cooperate) will be provided to the firm listing the items requested and inviting the firm to an informal hearing regarding the missing items. Proposed denial letters (failure to cooperate) will be submitted to the DCUCP Committee for informational purposes, discussion if necessary, and a vote will be taken to approve the proposed denial letter-failure to cooperate.
- 6.8.3 If a firm attends the informal hearing responding to its failure to submit additional information and the information presented does not warrant reversal of the proposed denial, (Final Denial Letter) will be provided to the firm providing appeal rights to the United States Department of Transportation (USDOT).

7 Safety Management

The following steps shall be followed for conducting site visits if the firm is located in the District of Columbia as specified in section 6.5:

1. Attend all required safety related training to access WMATA property;

2. Ensure that safety equipment is properly maintained, updated as required and worn while conducting site visits; and
3. During site visits inform manager of date/times, locations, contracts/company name for site visit.

8 References

8.1 49 CFR Part 26

8.2 49 CFR Part 23

9 Records

N/A

10 Appendices, Attachments and/or Exhibits

N/A

11 Approvals

Controlled Document I hereby state that I have found no errors of this controlled quality document, and thus the document is ready for release

Content Approved

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Date

Controlled Quality Document I authorize this controlled quality document for release.

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