

**OFFICE OF THE CITY CONTROLLER**



**MAYOR'S OFFICE**

**AFFIRMATIVE ACTION AND CONTRACT COMPLIANCE DIVISION  
PERFORMANCE REVIEW**

**Annise D. Parker, City Controller**

**Steve Schoonover, City Auditor**

**Report No. 2010-09**



OFFICE OF THE CITY CONTROLLER  
CITY OF HOUSTON  
TEXAS

ANNISE D. PARKER

December 16, 2009

The Honorable Bill White, Mayor  
City of Houston, Texas

SUBJECT: Mayor's Office - Affirmative Action and Contract Compliance Division  
Performance Review (Report No. 2010-09)

Dear Mayor White:

The City Controller's Office Audit Division has completed a performance review of the Mayor's Office Affirmative Action and Contract Compliance Division (AACC). The objectives of our review included examining and assessing the operational practices, resources, and technology tools to provide recommendations for improving the coordination, efficiency, and effectiveness of AACC functions; determining the overall adequacy of AACC's current system of internal controls related to their procedures and processes; and assessing performance by surveying several of AACC's customers.

The report, attached for your review, includes a Comparative Study of MWDBE Programs for Ten Cities (Exhibit II) and the Views of Responsible Officials (Exhibit III). The team concluded that the AACC is operating in a generally effective manner to accomplish the stated objectives of the MWDBE Program. The team made numerous observations and recommendations to tighten their internal processes and improve efficiencies. AACC management's corrective actions to address solutions to the recommendations are included in the body of the report. The report also notes that there seems to be a disconnect between their mission statement, the expectations of City Council, the prime contractor community, and the MWDBE firms.

We commend AACC management for their timely efforts to take action to remedy the deficiencies identified. We also appreciate the cooperation extended to our auditors by AACC personnel during the course of the review.

Respectfully submitted,

Annise D. Parker, City Controller

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## **AFFIRMATIVE ACTION AND CONTRACT COMPLIANCE PERFORMANCE REVIEW**

### **EXECUTIVE SUMMARY**

#### **BACKGROUND**

In 1984, the City of Houston (the City) created a Minority and Women Business Enterprise (MWBE) program with the passage of Ordinance 84-1309 and became the first city in Texas to set specifics for including minorities and women in City funded contracting. The policy governing the administration of the MWBE program is found in Chapter 15 of the City's Code of Ordinances, (the Code) Articles V and VI. Article V defines a minority business enterprise (MBE) or a women business enterprise (WBE) and a small business enterprise (SBE.) Further, the Code defines a minority as a person whose origin or descent falls within four nationality groups – Black, Spanish/Hispanic, Asian-Pacific American, or Native American. Article V also requires the Affirmative Action and Contract Compliance Division (AACC) to compile a bi-monthly progress report of City departments, by department, in attaining the City-wide goals set by City Council.

The MWBE program has grown in scope over the years. The City had already adopted an ordinance concerning disadvantaged business enterprises (DBE) in 1981 to comply with US Department of Transportation's (DOT) DBE program requirements. Subsequent to the adoption of Ordinance 84-1309, the City added SBEs and persons with disabilities business enterprises (PDBE). Now the program is known as the MWDBE/SBE program (Program). A business must meet the U.S. Small Business Administration's guidelines for a SBE to qualify for the Program. Note: SBE goals apply to construction contracts only.

The aspiration goals for the City's MWDBE program have changed over the years. Based on the results from various lawsuits that challenged MBE/WBE/DBE programs throughout the United States, municipalities now can use the disparity study method to align their goals with the capacity in their market area. To this end, the City commissioned a disparity study in 2006 and revised the goals to those recommended by the study. At that time, the construction goal was comprised of 14% MBE participation, 5% WBE participation, and 3% SBE participation. The 24% MWBE goal for professional services and the 11% MWBE goal in purchasing contracts remained intact.

However, in December 2008, the City reached a settlement on a 1996 federal constitutional challenge to the City's MWDBE Program that was settled in 2006, but was subsequently reopened. The final settlement required the City to drop the separate category for WBEs in construction and add that percentage to the SBE goal. Therefore, the construction goal is currently comprised of 14% MBE participation and 8% SBE participation. The settlement also requires the City to have a new disparity study completed by the end of calendar year 2009. The City must then set new goals supported by the study's recommendations as soon as possible following the conclusion of the study.

It is important to note that the goals listed in the contract are set by the initiating department prior to the contract award and the prime contractor (Prime) must comply by submitting a plan to achieve the goal or by submitting adequate evidence of a good faith effort to utilize acceptable firms. It should also be understood that the Prime, due to circumstances beyond their control, can fail to meet the goals, i.e. the sub contractor (Sub) fails to perform or the Sub files for bankruptcy. In these situations, the Prime must provide documentation justifying the failure to attain the goals to the Director of AACC. AACC will review the circumstances surrounding the

failure to attain the goals, interview appropriate individuals, and make a determination as to the adequacy of the "good faith effort." Their determination will be reported to the City Council Committee on M/WBE and Small Contractor Development and Contract Compliance.

Per AACC management, their stated mission is:

"The Affirmative Action and Contract Compliance Division is committed to providing quality certification, compliance, business development, and training programs to promote equal access, employment and economic opportunity at every level of City government; and to ensure compliance with local, state, and federal mandates. The Division is further committed to providing exceptional customer service that exceeds expectations. We are dedicated to providing a supportive and healthy work environment where all employees are appreciated, encouraged and respected."

In addition to AACC, several other departments engage in the affirmative action and/or contract compliance activities. The website of the Houston Airport System's (HAS) Small Business Development and Contract Compliance Division (SBDCCD) states they exist to promote the utilization of DBEs in Department of Transportation's (DOT) Federal Aviation Administration (FAA) financially-assisted contracts; the utilization of minority and women and persons with disabilities business enterprises (MW/PDBEs) in the City funded contracts; to improve access to HAS contract and procurement opportunities for MW/PDBE and non-MW/PDBE companies; and to ensure compliance with local and federal mandates. AACC works with them in establishing and calculating the overall DBE and airport concession disadvantaged business enterprise goals, which are submitted annually and tri-annually to the DOT.

Also, the Public Works and Engineering Department's (PWE) Small Business Development Group was established to promote equal access to PWE contract and procurement opportunities for S/MWBEs. The Housing and Community Development Department monitors prevailing wage compliance and MWBE participation in Community Development Block Grant funded projects. AACC works closely with these other affirmative action efforts to further the goals of the Program.

In addition to administering the MWDBE program and the certification process, AACC is responsible for monitoring prevailing wage compliance on most City construction projects. They enforce the Equal Employment Opportunity and Prevailing Wage sections of those contracts through the audit of contractor payrolls and other contract documents and through on-site visits, which include interviews with the construction workers. Furthermore, Contract Compliance Officers (CCOs) investigate affidavits from workers alleging wage underpayments.

## **OBJECTIVES AND SCOPE**

Objectives of our AACC Performance Review were as follows:

- Examine and assess the operational practices, resources, and technology tools to provide recommendations for improving the coordination, efficiency, and effectiveness of AACC functions;
- Determine the overall adequacy of AACC's current system of internal controls as related to their procedures and processes;

- Determine whether City contractors are in compliance with MWDBE contract terms and guidelines;
- Provide recommendations for improving the quality of the processes, the overall cost efficiency, and deployment of resources related to AACC operations;
- Determine whether AACC performance standards have been established by management and if so, have they been met;
- Assess performance by conducting customer satisfaction surveys, if practical.

The scope of our review focused on activities from July 2007 through April 2009.

### **Procedures Performed**

The Review Team (Team) performed various tasks including:

- Documented certification and contract compliance process flows, previously not charted;
- Analyzed AACC's certified entity directory;
- Reviewed certification application files for completeness, applicant appropriateness, length of processing time, and validity of denied applications;
- Reviewed construction contract files for proper documentation, project monitoring, prevailing wage rate verification, and accurate goal percentage calculations;
- Held discussions with various MWDBE firms, certification agencies, and prime contractor associations;
- Monitored City Council and MWDBE Committee meetings;
- Surveyed, compiled and compared information from various cities (see Exhibit II.)

### **Observations**

During the time the Team spent with AACC, we made numerous observations that are detailed within the body of this report and are grouped into three areas: 1. Internal Review; 2. Client Organization Review; and 3. External Review. Several of these observations included:

#### **1. Internal Review:**

- AACC management in the Opening Conference presented a professional and informative briefing that enabled the Team to initiate the review in an expeditious manner.
- At times, the Prime submitted inadequate documentation to AACC or did not submit required documentation timely.
- CCOs were performing the same procedures differently. Also, instances were noted where the procedures were not being performed per the stated procedures.
- Several firms that had "graduated" from the Program were not removed from the MWBE Management and Contract Compliance System according to stated practice, although they had been removed prior to the review.
- The certification process requirements were more restrictive than those of other organizations, such as limiting certification to small businesses as defined by the Small Business Administration and requiring a site visit for all applicants, so the certifications were not based on the same criteria.
- Duplication in certification documentation required by the different programs could lead to a certain amount of confusion by the applicant.

- MWDBE Participation Reports reflected the participation goals as stated in the approved contracts and did not reflect the actual participation percentages for contracts that closed within the reported period.
- There was a lack of AACC manager review of calculations associated with Prime underpayments of prevailing wages.
- Various AACC processes/practices were identified that needed improvement, such as: discontinuing retaining duplicate documents received from certification applicants; instituting a tracking mechanism for hard copy certification files; and investigating having a rating for sub-contractors in the system.

## 2. Client Organization:

In the various meetings the Team had with MWDBE firms, Prime contracting firms, and associations, many individuals provided comments which are detailed in the report. In general, those comments reflect confusion regarding the goals, implementation, and organization of the Program. In fact, there seems to be a disconnect between AACC's mission statement and the expectations of City Council, the prime contractor community, and the MWDBE firms. We used the complaints and suggestions from the various groups to develop certain review procedures.

## 3. External Review:

The Comparative Study of MWDBE Programs For Ten Cities (see Exhibit II) identified facts, such as:

- AACC has more Certification staff than the average Program (tied for 6<sup>th</sup> of seven Programs that have staff, three outsource their Certification.)
- AACC does not recognize as much reciprocity in their Certification process as four other Programs.
- AACC's Certification process allows 90 days versus 30 days (shortest Program.) Note: Eight of ten Programs have 90 day allowances. Also, AACC performs certification for the US DOT's DBE program and the 90 days processing time and many of the documents are required by federal code.)
- AACC requires more Certification documentation than the average Program.

## **OVERALL CONCLUSION**

Based on the results of our review, we concluded that the Mayor's Office of Affirmative Action and Contract Compliance is operating in a generally effective manner to accomplish the stated objectives of the MWDBE Program. However, there seems to be a disconnect between their mission statement, the expectations of City Council, the prime contractor community, and the MWDBE firms. As a result of our discussions with the various groups, it was evident there were varying views as to what should be the primary focus of the AACC:

- Recruitment and certification of a broad pool of firms to enable business growth and development;
- Certification and compliance to prevent fraud or abuse within the system;
- Attainment of target goals for each contract;
- Facilitation of Prime/Sub relationships to allow meaningful long-term access of MWDBEs to contracting opportunities.

Many stakeholders are not aware of the Division's activities in each of these areas.

The Team identified that AACC management has been criticized for the poor Program goal achievement of some Primes. Article V is clear in stating it is the responsibility of the initiating department's management to insure Primes meet or exceed their goals. Because of this confusion, the M/WBE, Small Contractor Development and Contract Compliance Committee of City Council should work with the Administration and the departments to clearly delineate areas of responsibility and provide mechanisms for departmental accountability.

AACC management has immediately taken steps to address solutions to our observations and tighten their internal processes. In most instances they were already aware of the situation and had a solution. In a few instances, management was not aware of the observation, but, still acted quickly to address the issue. In regards to the Project Manager assuming responsibility for MWDBE contract goal achievement, AACC has begun meeting with initiating departments to develop procedures and processes to accomplish this.

The Team attempted to verify the information contained within AACC's Certified Entities Directory. Of the 53 companies contacted, 25% indicated there was at least one error in their information. AACC attempted to contact each entity listed in the directory, verified the listed information, and made any corrections. This is to become a task performed semi-annually.

The objective of the City's MWDBE Program is to open contracting opportunities to historically underutilized groups of businesses so those entities have a better chance to grow their business. The mechanism used to accomplish this is through specifying a certain percentage of a contract's value to be worked by one or more of those historically underutilized firms; the "goal" of the contract. The contracting Department is responsible for setting the goal and helping ensure the contractor achieves the goal. AACC is responsible for certifying MWDBE entities, helping them understand the City's contracting process, publishing their availability and area of expertise, and helping the initiating department locate entities qualified to satisfy the contract goal. Then AACC is responsible for monitoring and reporting the contractor's success or failure to achieve the goal and the overall progress of the Program.

AACC further assists business owners by:

- Disseminating contracting opportunities information;
- Providing management and technical assistance workshops and seminars;
- Participating in a variety of outreach initiatives;
- Operating the One Stop Business Center.

The Team believes that efficiencies can be gained within AACC by:

- Reviewing all existing documentation requirements, eliminating duplicated and unneeded forms and documents;
- Eliminating the extra copy of close documents on the outside of the project folder;
- Not retaining duplicate documents received from entities applying for certification because it adds to the paperwork that has to be reviewed at re-certification;
- Investigate granting certification for more than one year;
- Adopting a tracking system for certification files, possibly noting it in the System or by using a physical place holder;
- Extending the time to close certification application files from 30 days to 60 days;

- Investigating a rating for Subs in the System;
- Using a column on the Underpayments List for the date when checks are submitted from the Contract Compliance Section to the Staff Analyst for deposit;
- Working to eliminate that portion of entity certification already accomplished by organizations that have an AACC Board Member voting for their limited certification;
- Extending the time period for certification/recertification.

## REVIEW DETAILS, OBSERVATIONS, RECOMMENDATIONS, AND CORRECTIVE ACTIONS

### DETAILED BACKGROUND

In 1984, the City of Houston (City) created a Minority and Women Business Enterprise (MWBE) Program with the passage of Ordinance 84-1309 and became the first city in Texas to set specifics for including minorities and women in City funded contracting. The City policy is “to stimulate the growth of local minority and women business enterprises by encouraging (their).....full participation in all phases of its procurement activities and by affording them a full and fair opportunity to compete for all city contracts.” In 1981, the City had already adopted an ordinance concerning disadvantaged business enterprises (DBE) to comply with US Department of Transportation’s (DOT) DBE program requirements. Subsequently, the City adopted ordinances that added a graduation component, persons with disabilities business enterprises (PDBE) and small business enterprises (SBE) to the group of businesses that the City seeks to provide a platform for their growth and development. The program is now known as the MWDBE/SBE program (Program). The Affirmative Action and Contract Compliance Division (AACC) also certifies disadvantaged business enterprises (DBE) for the US DOT.

The policy governing the administration of the MWDBE program is found in Chapter 15 of the City’s Code of Ordinances (the Code,) Articles V, Minority and Business Enterprises, and VI, Persons With Disabilities Business Enterprises. Article V defines a minority business enterprise (MBE) or a women business enterprise (WBE) as a business:

- Which is at least 51 percent owned, managed, and independently controlled by one or more minorities or one or more women who are a citizen or a legal resident alien;
- Which is an existing for-profit business with a real and substantial local presence. AACC has further defined “local” to include at least one of eight counties surrounding Houston: Harris, Brazoria, Chambers, Fort Bend, Galveston, Liberty, Montgomery, or Waller (DBE firms do not have to meet this requirement);
- Which has suffered from historical discriminatory practices resulting in impairment of their competitive position (this through reference to Ordinance 84-1309);
- Which meets the business size standards of the Small Business Administration in 13 Code of Federal Regulations, Part 121 for its specific standard industry code(s);
- Whose owner has the skills and expertise to perform as a contractor in the work for which it is seeking certification.

The Code further defines a minority as a person whose origin or descent falls within four nationality groups – Black, Spanish/Hispanic, Asian-Pacific American, or Native American. Origin or descent can be regarded as the ancestry, nationality group, lineage, or country in which the person or persons’ parents or ancestors were born before their arrival in the US. The criteria for DBEs are set by DOT and the criteria for SBEs are set by the US Small Business Administration (SBA.)

The aspiration goals for the City’s MWDBE program have changed over the years. The following table demonstrates this by comparing the initial goals to the current goals:

<b>Contract Type</b>	<b>1984</b>	<b>2009</b>
Construction	10%	22%
Purchasing	7%	11%
Professional	16%	24%

Based on the results from various lawsuits that challenged MBE/WBE/DBE programs throughout the United States, municipalities can now use the disparity study method to align their goals with the capacity in their market area. To this end, the City commissioned a disparity study in 2006 and revised the construction goals to 14% MBE participation, 5% WBE participation, and 3% SBE participation.

However, in December 2008, the City reached a settlement on a 1996 federal constitutional challenge to the City MWDBE Program that was settled in 2006, but was subsequently re-opened. The final settlement required the City to drop the separate category for WBEs in construction and add that percentage to the SBE goal. Therefore, the construction goal is currently comprised of 14% MBE participation and 8% SBE participation. The settlement also requires the City to have a new disparity study completed by the end of calendar year 2009. The City must then set new goals supported by the study's recommendations as soon as possible following the conclusion of the study.

Not all contracts are subject to the MWDBE Program. The City has three named fields of contracting:

- 1) Goods and nonpersonal or nonprofessional services (Goods);
- 2) Personal or professional services (Services);
- 3) Construction.

Goal-oriented contracts are defined as Construction Contracts estimated to be in excess of \$1,000,000 and Goods or Services contracts in excess of \$100,000, subject to competitive bid laws. Regulated contracts are not subject to competitive bid laws, but the initiating City department determines if the contracts have significant subcontracting potential for MWDBE participation. Article V, Section 15-83 states the initiating department "shall determine whether the contract is one to which MBE/WBE provisions should be applied." Furthermore, "the initiating department shall assign an appropriate MBE/WBE participation level, if any, for the contract (whether goal-oriented or regulated) considering the local availability of certified MBEs/WBEs in the contract field."

Article V, Section 15-83 also notes that MWBE provisions are not required to be applied in the following circumstances:

- A public or administrative emergency exists, which requires unusual immediacy;
- The goods or services are of a specialized, technical, or unique nature;
- Application of MWBE provisions would impose an unwarranted economic burden or risk on the City, or unduly delay acquisition of the goods or services;
- If the possible MWBE participation level would be negligible, based on MWBE availability.

If any of these conditions exist, the initiating department's Director must certify in writing to the AACC Director the reasons for requesting a 0% goal and AACC will review the request to determine if a 0% goal is warranted. This review usually involves canvassing the Directory to verify if there are no opportunities and/or MWBEs available for the contract. This should occur before the contract is awarded; preferably before the contract is advertised. When the initiating department has determined that MWDBE requirements should apply to a contract, they can consult with AACC if they have trouble finding certified MWDBEs to meet the requirements. According to the Code, if the initiating department cannot find any MWDBE firms to meet the

participation specified for that type of contract, they **must** contact AACC for help before presenting the Request for Council Action (RCA.) Historically, contracts for Goods and Services have generated the most opportunities for AACC to help locate MWDBEs.

As part of their normal affirmative action duties, Article V specifies that AACC has responsibility for the following tasks:

- Establishing procedures for the implementation of the MWDBE effort and reviewing procedures established by City departments;
- Certifying businesses as minority and women business enterprises and maintaining and distributing a current register of such business;
- Developing educational programs for minority and women business enterprises;
- Reviewing documentation from prime contractors (Primes) concerning good-faith efforts made to meet or exceed the participation level for contracts. The final recommendation to City Council (Council) for award or for acceptance of work shall be the City department's;
- Compiling a report every other month, by department, of the progress the City departments have attained towards the City-wide goals set by Council;
- Making recommendations to further the program, reviewing complaints concerning the program, and establishing various procedures.

In addition to those affirmative action duties, AACC performs the following functions:

- Monitoring the City construction projects to ensure compliance with prevailing wage rate provisions;
- Providing management and technical assistance and other support services for small and MWDBE firms;
- Administering the City's One Stop Business Center;
- Training the City workforce on a variety of Equal Employment Opportunity topics;
- Addressing issues relevant to the disability community;
- Ensuring compliance with the Americans with Disabilities Act;
- Monitoring departmental compliance with the Pay or Play program.

At June 1, 2009, AACC was performing these diverse responsibilities with a team of 36 employees. AACC is currently comprised of four Sections: Business Development / Certification; Contract Compliance; Training, Equal Employment Opportunity, and American with Disabilities Act Compliance; and Administrative Support Staff. See AACC's June 1, 2009 organization chart at Exhibit 1.

In addition to AACC, several other departments engage in affirmative action and/or contract compliance activities. The Houston Airport System (HAS) Small Business Development and Contract Compliance Division (SBDCCD) is responsible for monitoring S/MWBE and DBE participation on the HAS's City and federally funded contracts. AACC works with the team in establishing and submitting the overall DBE and airport concessionaire disadvantaged enterprise goals, which are calculated and submitted annually and tri-annually, to DOT. The City and federal goals are completely different. If HAS has a contract that is federally funded, it should only have a DBE goal. SBDCCD also monitors prevailing wage compliance on all airport construction projects.

Also, the Public Works and Engineering (PWE) Department Small Business Development Group was established to promote equal access to PWE contract and procurement opportunities for Small/ Minority/ Women Business Enterprises (S/MWBE). The group's number one goal is to accomplish the following:

- Provide contracting opportunity information to S/MWBEs;
- Provide education and outreach and serve as an advocate for S/MWBEs;
- Assist prime contractors with identifying certified S/MWBE to participate;
- Review PWE contracts and set realistic participation goals.

Furthermore, the Housing and Community Development Department monitors prevailing wage compliance and MWBE participation on Community Development Block Grant (CDBG) funded projects.

AACC participates in a number of outreach activities to recruit MWBEs. They have also entered into Memorandums of Understanding with seven organizations to inform their members about the Program and facilitate the application process. These organizations include local Chambers of Commerce, as well as industry specific organizations. Regarding voids within the Program, AACC does not survey particular areas within the City, nor do they recruit for specific types of businesses. They do however, maintain a list of all of the contracts for which AACC approves a low or 0% goal. This list is distributed to Council Members, other certifying agencies and organizations.

AACC is proactive in recognizing the efforts of the Primes to attain their goals. At least three outstanding Primes are recognized at the annual Government Procurement Connections luncheon. The Construction Primes that exceed their goals are recognized at the City Council MWBE Committee meeting and acknowledged in AACC's quarterly newsletter.

### **PROCEDURES PERFORMED**

As part of our information gathering for the Division, we interviewed professional organizations and other interested parties who interact with AACC. We monitored City Council and Subcommittee meetings. We also compiled information from a limited sample of other cities on their affirmative action programs for comparative purposes. This compilation is attached as Exhibit II. We then interviewed Division personnel to determine their processes and procedures. Once this was complete, we decided to focus our efforts on the Certification, Contract Compliance, and Administrative Support Sections. We compiled flow charts for the certification and the contract compliance processes, which we provided to AACC under separate cover.

Our procedures concerning the certification process included analyzing the MWDBE directory linked to AACC's web page on the City's web site and contacting a sample of entities to verify the information listed for them. We also reviewed a sample of certification application files to evaluate the appropriateness of the applicant, the completeness of documentation, the length of time to process the application, and the validity of denied applications.

In the contract compliance process, we reviewed a sample of active construction contract files for proper documentation, appropriate project monitoring, and adequate prevailing wage rate verification, and a sample of closed construction contract files for accurate MWDBE participation percentage calculations. For the Administrative Support area, we verified the information in a

sample of bi-monthly and annual reports issued by AACC on Program activities and verified certain Division expenses.

### **PROFESSIONAL ORGANIZATIONS AND OTHER INTERESTED PARTIES**

In order to help us ascertain how effectively AACC administers the Program, we had discussions with representatives of five (5) organizations that include MWDBEs as members to solicit their opinions. Further, we attended a round table discussion at which six other organizations and five individual businesses were represented. Individuals from the following organizations took part in the discussions:

Black Democrats	Latinos De Houston
Hispanic Business Network	League of United Latin American Citizens
Houston Minority Business Council	Vietnamese Chamber of Commerce
Houston Citizens Chamber of Commerce	Women Business Enterprise Alliance
Houston Contractors Association	Women Contractors Association
Houston Hispanic Chamber of Commerce	

For the most part, they had positive things to say about AACC's performance and personnel, saying that AACC's employees "went out of their way" to help. Several stated they believe the Director is committed to quality efforts and improvement. However, there appears to be a common perception that being certified almost guarantees an entity will obtain work with the City. A few firms described the Program in terms ranging from inefficient to ineffective. Most of the negative comments concerned the certification process. Several said the process was too complicated and took too much time, even to the point that businesses choose not to do business with the City rather than go through the process. (Note: During fieldwork it was determined that AACC completed the Certification Process within an average of 28 days from receipt of all application documentation. The total average elapsed days from obtaining the initial application documents to sending the notification letter were 74 days.)

As a result of our discussions with the various groups, it was evident there were different views as to what should be the primary focus of the AACC:

- Recruitment and certification of a broad pool of firms to enable business growth and development;
- Certification and compliance to prevent fraud or abuse within the system;
- Attainment of target goals for each contract;
- Facilitation of Prime/Sub relationships to allow meaningful long-term access of MWDBEs to contracting opportunities.

### **OBSERVATIONS, RECOMMENDATIONS, AND CORRECTIVE ACTIONS**

#### **Observation - More Involvement from City Departments**

When we reviewed the project files for adherence to stated practice, we noted that sometimes the Prime submitted inadequate documentation to AACC or did not submit the required documentation in a timely manner. When this occurred, the Contract Compliance Officer (CCO) was placed in a position of trying to make the Prime comply with the terms of the contract. We also noted that several Primes did not follow the deviation process during the term of the contract, but waited until the end to request permission for using Subs different from those listed

in the RCA. Additionally, AACC sometimes had a limited time to determine if the MWDBEs listed on a RCA are currently certified and would count towards achieving the goal. Furthermore, a few Project Managers (PMs) sent documents to AACC that were not required for their monitoring function.

**Recommendation:** In order to help AACC perform their contract monitoring function more efficiently, we recommend that AACC notify the PM when a Prime is not performing according to the Program requirements. The PM should work with the Primes to ensure they meet the Program requirements. Also, the PM should ensure that AACC knows what Subs the Prime plans to use to meet the goals well before the week the contract is scheduled to be approved by Council. This will allow AACC the time to determine if the Subs are certified and be able to work out a resolution if they are not. Furthermore, we recommend that the departments ensure that their PMs are knowledgeable about the Program requirements and are held accountable for following the proper procedures.

**Corrective Action:** AACC reported they trained their staff on steps to take when documents are missing, including corresponding with the Prime, as well as the initiating department. They recently began including PMs and other department personnel on correspondence to Primes regarding missing and incomplete compliance documents. Division personnel also started addressing MWDBE and prevailing wage rate compliance issues at departmental progress meetings with Primes.

### **Observation - Policies and Procedures**

During our review in the Contract Compliance Section, we noted instances where AACC personnel in the same positions were performing the same procedures differently. Also, we found instances where the procedures were not performed as stated. For example, in our review of the construction project files for appropriate documentation and adherence to stated practice, we noted the following situations:

- The CCOs were using inconsistent methods to calculate penalties for underpayments of prevailing wage rates.
- The CCOs were not consistently notifying the Prime in a timely manner when AACC had not received required documents.
- The CCOs were inconsistent in verifying the Certified Payroll.
- The CCOs were not performing the stated number of project site visits.
- One CCO used an improper Prevailing Wage Rate List to verify a Prime's payroll.

Additionally, our review of the prevailing wage rate underpayments and penalties revealed the log was inconsistently updated for final determinations.

Also, in our review of the graduated entities files on the certification side, we determined that several firms were not graduated and removed from the MWBE Management and Contract Compliance System (System) according to stated practice, even though the firms had been removed from the directory prior to the review.

Furthermore, our review of the goods and professional services contracts indicated there was no close-out procedure for those types of contracts.

**Recommendation:** Since formal policies and procedures provide structure and consistency to any process and contribute to internal control activities that ensure management directives, we recommend that AACC management review all of their stated policies and procedures and revise those that do not reflect current practice and develop ones where they are missing. Furthermore, we recommend that AACC train Division personnel on the new and revised policies and procedures once they have been developed.

**Corrective Action:** AACC reported they updated their contract compliance procedures manual (CCPM) to document processes that were used to establish consistency among CCOs and provide a valuable reference tool. They began holding quarterly training sessions for CCOs in July 2009. As part of updating their procedures, AACC reported that they:

- Established a procedure in July 2009 to ensure fair and consistent application of penalties.
- Designated an employee with maintaining and updating the Underpayment/Penalties log. Required each CCO to report the total amount of underpayments and penalties collected/assessed on their monthly report.
- Retrained the CCOs on the correct process for reviewing all certified payrolls. They established minimum requirements for all payroll audits to ensure internal consistency. When they fully implement the LCP Tracker Online Certified Payroll submission system it will provide a mechanism for all payrolls to be audited.
- Implemented a Supplemental Graduation Standard Operating Procedure. They created an Established Business Log and graduation tickler system to track the status of all Established Businesses and ensure that they graduate from the program timely. They also incorporated using the monthly System Report of established businesses and their status.
- Changed the performance measure to ensure that all active construction projects are visited each month. Each construction project file now contains an action sheet that describes correspondence, site visits, and other relevant activity. Additionally, they implemented a Site Visit Worksheet, which the CCO completes to document each site visit and the activity that took place. The worksheet is turned in to the Supervisor and a copy goes to the file. Finally, each CCO's monthly report will include a list of his/her projects, the status of each, and site visit activity.
- Revised the contractor's employee classification verification process and communicated it to the CCOs in July 2009. They also instructed the CCOs to emphasize at the pre-construction meetings that only classifications listed on the Prevailing Wage Rate table will be used and that there must be a legend if abbreviations are used.

### **Observation - Certification Process**

Our review of the certification application and denial files indicated the certified entities were valid MWDBEs, the documentation was appropriate and complete, and the reasons for denied applications were valid. For the sample of certifications reviewed, we determined the average time from receipt of the application to the issuance of the certification was 74 days. However, one of the most difficult parts of the process is obtaining all of the required documentation from applicants who are not trained in documenting business areas outside their normal business activities. AACC estimates they close approximately 90% of the applications at least once before they receive all the documentation. When we calculated the average time from receipt of

all documentation to the issuance of the certification letter for our sample, we determined it was 28 days.

One of our observations during our discussions with several of the professional organizations and other interested parties was that other organizations have a certification program, including the Houston Minority Supplier Development Council, (HMSDC) formerly Houston Minority Business Council (HMBC) and the Women Business Enterprise Alliance (WBEA.) In fact, several of those interviewed questioned the need for a separate City certification when the other certifications are available and require similar documentation. We concluded that the City certification process requirements are more restrictive than those of other organizations, such as limiting certification to small businesses as defined by the Small Business Administration and requiring a site visit for all applicants, so the certifications are not based on the same criteria. A definite plus for the City certification is that it is free to the applicants. However, any duplication in the documentation required by the different programs can lead to a certain amount of confusion. See Table II in the Comparative Study for additional information about reciprocal agreements in other cities.

**Recommendation:** Since much of the criteria required by AACC is very similar to that required by other certifying organizations, we recommend that AACC work towards eliminating that portion of certification already accomplished by organizations that have an AACC Board Member voting for their limited certification.

**Corrective Action:** AACC reported they already identified the differences between HMSDC's requirements and theirs and have started communicating with them about a more collaborative effort. They currently accept copies of documents from HMSDC and WBEA, in conjunction with gathering all other documents directly from the applicant not received or required by those other certifying agencies. This is completed with the consent of the applicant and helps streamline the certification process for applicants who have already gained certification from one of those other agencies.

### **Observation - Certified Entity Directory**

In response to complaints from several of the people interviewed, we performed various analyses of the MWDBE / SBE Directory and verified the information for a sample of certified entities. We noted the following situations:

- In the 53 entities who responded to our contact, 13 indicated there was an error of one kind or another in their information; e.g. phone number, address, fax number, certified business area, etc.
- One owner's name was listed incorrectly.
- There were two duplicate entries in the directory.

**Recommendation:** In order to help maintain accurate information in the directory, we recommend that AACC include the company information that was entered in the System when they send the congratulatory letter and certificate, and ask the entity to verify it. Also, during re-certification, AACC could include another copy of the entity's System information in the letter with the certificate and again request that the entity review the printout, update it with current information, sign it, and return it for input into the System.

**Corrective Action:** AACC reported they divided the entire Directory entries among Division staff and attempted to contact each entity to verify the contact information. This effort was completed in July 2009. They also took the following actions: 1) required that all entries for new and recertified firms be verified by another staff member; 2) revised the certification/recertification letters to include a printout of each firm's information for review by the business owner, and 3) established a plan to contact all certified firms bi-annually to verify accuracy of the information in the Directory.

### **Observation - Liability Account Reconciliation**

When we tested the prevailing wage underpayments and penalties and traced them to the Cash Receipts, we noted that both prevailing wage rate underpayments and the penalties for underpaid wages not submitted to the employee within the allowed time were both recorded in the same liability account: 239470 – PR Unclaimed Wages. An underpayment is a liability that is due the contractor's employee, when and if located, or to be escheated to the State after the appropriate time. However, the penalty is not a liability, but City revenue.

AACC has been using the state mandated penalty proceeds to pay for Contract Compliance expenses, a practice approved by the Finance and Administration Department (F&A) in 2006. F&A was supposed to have re-evaluated the situation in the first quarter of fiscal year 2007, but there was no indication that this occurred. Additionally, the log maintained by AACC is reconciled to the SAP balance for that account for Business Area 5100. However, since the beginning balance for account 239470 for Business Area 5100 was \$0.00, the balance on the log was not correct. Thus, AACC was not maintaining an accurate accounting for their portion of City assets and liabilities.

**Recommendation:** In order to more easily account for underpayments and penalties, we recommend that AACC work with the Controller's Office to identify the liability and revenue amounts with AACC. We also recommend that AACC consider keeping the different types of monies in separate accounts. Furthermore we recommend that AACC perform a complete reconciliation for the account(s) so that control over the liability and the revenue is maintained.

**Corrective Action:** AACC's Administration Section reported they had records reflecting the appropriate SAP beginning balance and all monthly activity since the conversion. They worked successfully with the Controller's Office to identify the current balances for the liability and revenue amounts for Business Area 5100, moved the appropriate amounts into separate accounts, and purchased a stamp for the CCOs to appropriately identify checks received. They have put procedures in place for regular account reconciliations and assigned that duty to the Staff Analyst (SA). Furthermore, the SA's supervisor will review the reconciliation on a regular basis.

### **Observation - Professional Services and Purchasing Contracts**

Each week, AACC reviews the Council agenda for Professional Services and Purchasing (PS&P) contracts and copies the supporting documentation for all approved PS&P contract RCAs. They use the information on the RCA to enter the funding amount, the MWBEs, and other appropriate data in the System. The current award in the System corresponds to the total amount of funding for the contract.

However, sometimes, a RCA may deal with multiple years and/or multiple contractors. During our review of a sample of PS&P contracts, we noted an entry for a contractor in which the current award was shown as \$130,000 in the System, but the actual payments showed almost \$800,000. The RCA used for this entry was the annual funding in the amount of \$520,000 for a six year appropriation and listed four contractors. AACC allocated the funding amount to the four contractors for the current award in the System.

**Recommendation:** In order to have better information in the System for tracking purposes, we recommend that AACC contact the initiating department when there is a contract for multiple years and/or multiple Primes, or any other questionable items, to get a better understanding of the details of the contract. Then, AACC can compare the current award amount to the actual payments for an indication of progress towards completion.

**Corrective Action:** AACC reported they have decided to enter the total contract amount in the System, not the annual allocation, and to contact the departments for input on how funds should be divided among awardees. They included these procedures in the revised CCPM. Also, they included a reference guide for entering the contract information in the System which will include various scenarios as examples.

#### **Observation - Inactive Professional Services and Purchasing Contracts**

Using the System, AACC monitors PS&P contracts throughout the term of the contract for the Prime's progress on meeting the contract's MWDBE goal. If the Prime is not meeting the goal, AACC contacts the Prime to determine the reason for the underachievement. However, since the initiating departments do not always notify AACC when PS&P contracts are completed, the contracts may not be closed out in the System. Thus, the number of "Active" PS&P contracts in the System will continue to grow.

**Recommendation:** AACC should work with the initiating departments to develop a procedure where the initiating department notifies AACC when a contract has been completed. Also, AACC should implement a close-out procedure for PS&P contracts.

**Corrective Action:** AACC reported they have developed and implemented a close-out process for PS&P contracts. They trained departmental personnel in three training sessions. Additionally, they worked with the departments to determine which projects listed as "Active" in the System were closed and the System information was updated.

#### **Observation - Program Results Reports**

One of AACC's duties includes providing MWDBE Participation Reports to the Mayor and Council. AACC issues these reports every other month and on an annual basis. However, the reports reflect the participation goals as stated in the approved contracts and do not reflect the actual participation percentages for contracts that closed within the reported period. Actual results are currently reported on a case by case basis when a project is preparing to close out and comes before Council to request final payment. Therefore, there is no comprehensive picture of the actual results of the MWDBE/SBE initiative for the current fiscal year and on a program inception-to-date basis.

**Recommendation:** Discuss ideas with AACC personnel as well as other Divisions and Departments to develop effective ways in which to present actual participation data. This may be a long term project for the Division as it may require work on other issues such as efficient project close out, timely input into the System, etc.

**Corrective Action:** AACC reported they purged unnecessary information from the System and reconciled it with data from SAP in order to produce a report of current MWDBE utilization on all active contracts. They requested and got a change to the System that generates a report of completed projects over a specified reporting period to show actual MWDBE percentage achieved. The results of the first report indicated that \$202 million, or 89.2%, of MWBE contracts awarded in fiscal years 2005 through 2009 were actually paid. These results were reported to the City Council Committee on MWBE and Small Contractor Development and Contract Compliance in November 2009.

### **Observation - Inaccurate Forms and Communications**

During our review of AACC's files and documents, we noted several forms used by AACC or communications with outsiders that did not provide complete documentation of the task performed or were not accurate. For example, CCOs use a form, "Employee Interview Form" to document their interviews of Prime's employees during construction site visits. However, the form does not include a place to indicate who provided the information for the employee to indicate they agree with the information written, or for the results of the interview, such as misclassifications or underpayments. For another example, the "Prevailing Wage Underpayment Back Pay Award Steps" document that is issued to Primes for underpayments instructs them to "send all checks by certified mail (return receipt requested) to the last known address" when the practice is to have the employee pick up the check personally and sign an affidavit. Additionally, one underpayment notice requires action within "seven (7) business days" while another version states "seven (7) calendar days".

**Recommendation:** AACC should review all of their forms used internally and communications with outside parties to ensure they properly reflect current practice as stated in the CCPM, they obtain complete information, and they are not redundant.

**Corrective Action:** AACC reported they have revised the interview form, the instructions for underpayments, and the initial determination of underpayments communications. Also, CCOs were trained on the correct procedures, which were included in the CCPM.

### **Observation - Supervisory Review**

Chapter 15 of the Code of Ordinance requires construction Primes to pay their employees the prevailing wage rate as specified by the US DOL in effect when the contract was awarded. If they do not pay the prevailing wage, the City assesses the Prime a fine of \$60.00 per day per employee, pursuant to Section 2258 of the Texas State Code. When AACC determines there is a possible underpayment of prevailing wages, they send a Notice of Underpayment signed by the Manager. However, when we reviewed the underpayments, we did not see any indication that the Manager or other designated employee reviewed the calculation of the underpayment. Furthermore, when we reviewed a sample of prevailing wage rate underpayments and penalties, we found an incorrectly identified underpayment and penalty, which the Prime had paid.

**Recommendation:** AACC should require an independent verification of underpayments and penalties. The person reviewing the calculation should indicate their review and the date of the review on the documentation. Furthermore, AACC should issue a refund to the Prime for the penalty assessed.

**Corrective Action:** AACC reported they returned the penalty charged in error to the Prime. The procedure was documented and included in the CCPM and the CCOs were trained on the revised procedure.

### **Observation - Miscellaneous Proposed Efficiencies**

During the course of conducting our review and compiling the comparative study, we developed the following suggestions for possible improvements to AACC's processes:

- Eliminate the extra copy of close documents on the outside of the project folder;
- Discontinue retaining duplicate documents received from entities applying for certification because it adds to the paperwork that has to be reviewed at re-certification;
- Investigate granting certification for more than one (1) year;
- Institute a tracking system for certification files, possibly noting it in the System or by using a physical place holder;
- Extend the time to close certification application files from 30 days to 60 days;
- Investigate having a rating for Subs in the System;
- Use a column on the Underpayments List for the date when checks are submitted from the Contract Compliance Section to the Staff Analyst for deposit.

**Corrective Action:** AACC responded with the following planned or implemented actions:

- We have eliminated putting the extra copies of close documents on the outside of the file, as well as all unnecessary copies of these documents. Our Division is undertaking a waste reduction initiative that will reduce the number of copies made by transmitting more information electronically, among other things.
- We will discard duplicate documents received from business owners after documenting their receipt.
- Since we certify so many companies as DBEs, and the federal regulations require submission of annual affidavits, the streamlined recertification process will remain in place. (Technically, DBE certification is good for 3 years. Companies stay in the City's program as long as they provide annual affidavits and remain under the SBA Size Standard) Note – We are currently testing (December 2009) an Online Application System that will further streamline the process.
- The location/status of most files is available in the system. We had previously implemented a File Sign Out log to track the location of all files at all times, but we will ensure the proper procedures are followed. The same process was implemented for Purchasing and Professional Services files.
- The close letter does not indicate a length of time that a file remains closed and they are re-opened when additional documentation is received. We will keep the current practice.
- We do not support having a rating for MWBE Subs in the system. If a rating system is imposed, it should apply to all Subs – not just MWBEs. If the objective of having a rating system is to determine the capacity of a firm, it would be better to have a profile

available in the system that would allow MWBEs to post their largest completed projects, bonding capacity, references, etc. We will investigate adding this to our current system.

- We revised the form that accompanies the check to reflect the check submission date.

### **Observation - Sanctions for Failure to Meet Contracted Goals**

A frequent criticism made about the Program is the City's failure to hold Primes accountable for meeting the contracted goal. When several Primes in the past have not met the goal, AACC has had to justify their performance to Council.

**Recommendation:** In order to strengthen the City's standing on achieving Program goals, we recommend that AACC meet with the project departments and determine appropriate types of sanctions and/or liquidated damages for Primes that fail to meet their goals. Upon agreement on these sanctions, AACC and the departments should coordinate with the Legal Department in an effort to incorporate applicable language into future contracts.

**Corrective Action:** AACC reported that they have met with various department Directors from the City to establish parameters for when sanctions should be issued, or for different types of punitive measures, such as liquidated damages. They initiated sanction proceedings on three Primes who failed to make good faith efforts to meet their goals, but the Primes were able to adequately rectify the situations.

### **CONCLUSION**

Based on the results of our review, we concluded that the Mayor's Office Affirmative Action and Contract Compliance Division is operating in a generally effective manner to accomplish the stated objectives of the MWDBE Program. However, there seems to be a disconnect, between their mission statement, the expectations of City Council, the prime contractor community, and the MWDBE firms. As a result of our discussions with the various groups, it was evident there are varying views as to what should be the primary focus of the AACC:

- Recruitment and certification of a broad pool of firms to enable business growth and development;
- Certification and compliance to prevent fraud or abuse within the system;
- Attainment of target goals for each contract; or
- Facilitation of Prime/Sub relationships to allow meaningful long-term access of MWDBEs to contracting opportunities.

Many individuals are not aware of AACC's activities in each of these areas.

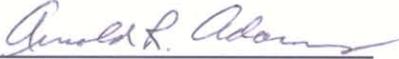
The Team identified that AACC management has been criticized for the poor Program goal achievement of some Primes. Article V is clear in stating it is the responsibility of the initiating department's management to insure Primes meet or exceed their goals. Because of this confusion, the M/WBE, Small Contractor Development and Contract Compliance Committee of City Council should work with the Administration and the departments to clearly delineate areas of responsibility and provide mechanisms for departmental accountability. AACC has the additional responsibility to ensure that construction Primes are in compliance with the prevailing wage contract provisions.

AACC management has immediately taken steps to address solutions to our observations and tighten their internal processes. In most instances they were already aware of the situation and had a solution. In a few instances, management was not aware of the observation, but, still acted quickly to address the issue. In regard to the PM assuming responsibility for MWDBE contract goal achievement, AACC has begun meeting with contracting departments to develop procedures and processes to accomplish this.

The Team attempted to verify the information contained within AACC's Certified Entities Directory. Of the 53 companies contacted, 25% indicated there was at least one error in their information. AACC has contacted each entity listed in their directory, verified the listed information for those reached, and made any corrections. This is to become a task performed semi-annually. AACC will also include the entity's information in the certification/recertification letters for verification.

The Team would like to thank the management of AACC for their cooperation during our review and their receptive attitude for improving their processes. The Team would also like to thank all of the AACC individuals with whom we had contact for their professionalism.

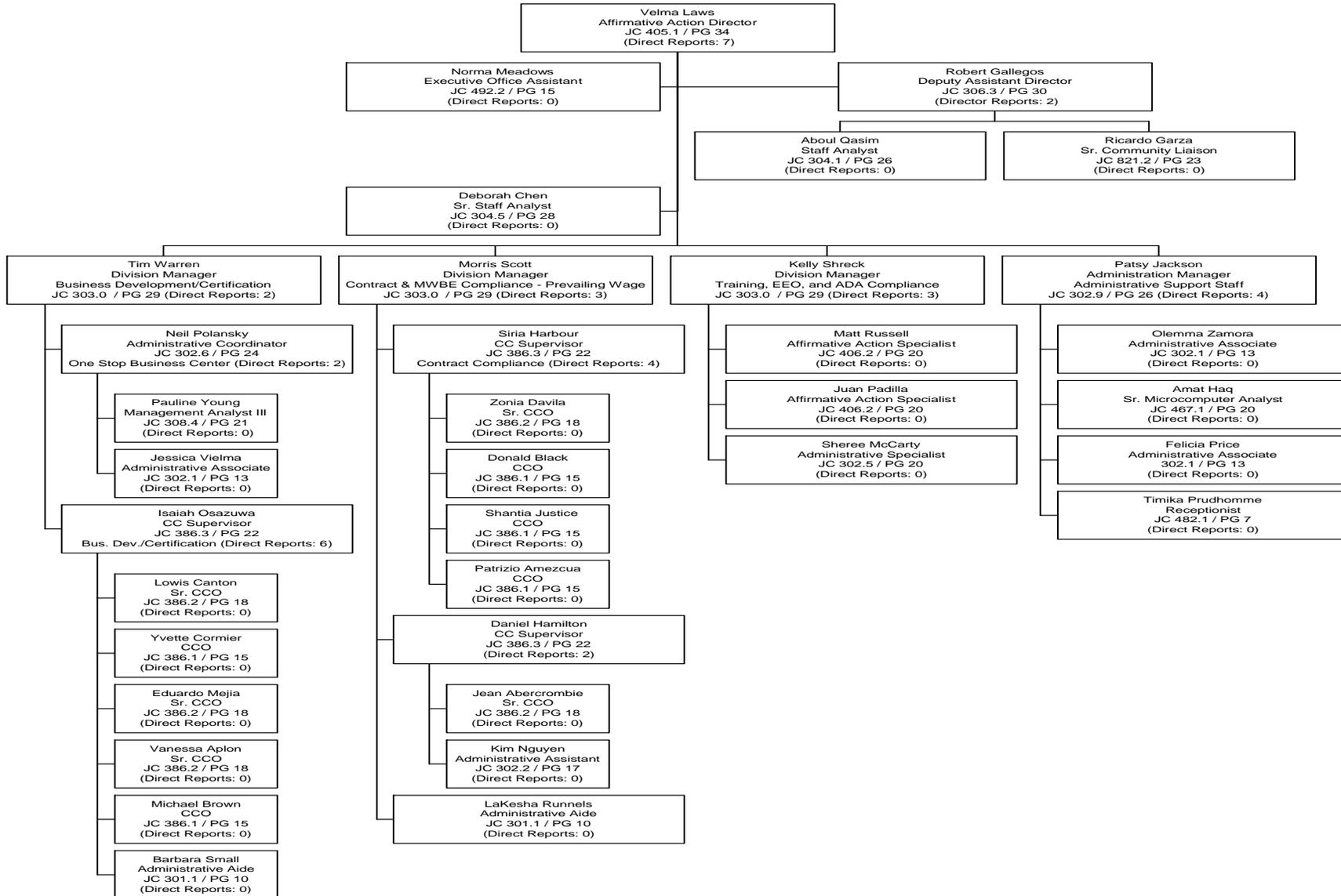
  
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# Affirmative Action and Contract Compliance Organization Chart

June 1, 2009





**Comparative Study of Minority/Women/ Disadvantaged Business Enterprise Programs  
for Ten Cities**

**City of Houston  
Office of the City Controller  
Audit Division**

May 2009

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## Comparative Study of Minority/Women/ Disadvantaged Business Enterprise Programs for Ten Cities

### Executive Summary

The information presented in this report was gathered as part of a performance review of the Affirmative Action and Contract Compliance Division (AACC) of the City of Houston (COH) Mayor's Office. The original purpose in gathering this information was to provide a comparison of AACC's Minority/ Women/ Disadvantaged Business Enterprise (MWDBE) program certification process to those of other cities within the United States.

The comparative information for the following cities is included in this study:

Austin, TX	Atlanta, GA
Dallas, TX	Chicago, IL
Houston, TX	Denver, CO
Fort Worth, TX	Orlando, FL
San Antonio, TX	Philadelphia, PA

The descriptive data collected for each city's MWDBE program was compared based on the following seven attributes.

- Number of certification employees
- Reciprocity of other entities' MWDBE certification
- Certification length of validity
- Certification employee average monthly output
- Length of certification process
- Number of documents required
- Severity of sanctions

The scores of each city were summarized in a table and analyzed. The data collected relating to the certification employee average monthly output was analyzed in correlation to the other six attributes to produce the results contained in this study. The evaluation of the compared characteristics and other researched information indicate these key observations:

- The COH has the second highest total input score and has the third highest monthly output per certification employee. Conversely, Orlando has the smallest total input score but has the highest monthly output per certification employee (refer to Table VII and Charts I through VII). Note: This measures efficient use of resources coupled with criteria for certification (work load, timeline, etc.). This may indicate cost-benefit and/or effectiveness.
- The COH's overall input score is very close to the baseline. Table VII and Charts I through VII show the performance of COH in comparison to the baseline.
- Three states – California, Washington and Michigan have adopted race and gender neutral programs replacing MWDBE programs due to statewide referendums
- Three cities contacted have adopted race/gender neutral programs (Detroit, El Paso, and Seattle).
- Reciprocity of other agencies' certificates directly impacts the average monthly certification output.

## **Comparative Study of Minority/Women/ Disadvantaged Business Enterprise Programs for Ten Cities**

### **Introduction**

The City of Houston (COH) created the first MWDBE program in the State of Texas in 1984 with the passage of Ordinance 84-1309. The program established specific goals and other requirements to increase the participation of minorities and women in COH contracting activities. The COH participation goals have been revised over the years to promote equal access, employment and economic opportunity, and to align the MWDBE participation goals to the number of eligible businesses and past participation. This study was conducted to compare particular attributes of the COH MWDBE program certification process with other cities in Texas and other states.

Sixteen cities were initially selected for the survey, which included the Cities of San Francisco, El Paso, Seattle, and Detroit. However, our research indicated that three states – California, Michigan, and Washington have replaced their MWDBE or Affirmative Action programs with race/gender neutral alternatives. These states have adopted race/gender neutral programs as a result of voter approved laws: California – Proposition 209 (1997), Michigan – Proposal 2 (2006) and Washington – Initiative 200 (1998). The City of El Paso, TX does not have an MWDBE program. Outside agencies such as the Hispanic Chamber of Commerce and the City of El Paso's Small Business Administration handle the certification of minority, women, and disadvantaged businesses. Minneapolis and Saint Louis did not fully respond to the survey questions.

### **Limitations**

This section acknowledges and rules out the possibility of factors such as time and other limitations that could influence the results of this study. The following factors are specific limitations inherent to this study.

- Non-statistical results – Methods used in this study are descriptive rather than normative inference. The current study draws upon a limited representative (non-statistical) sample of MWDBE programs. Statistical inferences, margins of error, and confidence intervals cannot be applied to these data given the nature and sampling process used.
- Sampling-bias – The current observations are based on a small representative sample of MWDBE programs across the United States. Cities were pre-selected and contacted by the COH based on the availability of respondents. Non-response bias was not investigated. It may be possible that cities that did not participate have fundamentally different criteria compared to the ones that completed the survey.
- Small sample size – A small population of MWDBE programs was included in the study.
- Self-reported results – The quality of the survey is based on the integrity of information received from the respondents. Although certain verification processes can be incorporated into the survey, there is always a possibility that information provided is estimated rather than fact based.

## **Methodology**

### *Survey*

The descriptive data in this study are based on information collected from the websites of each individual city and interviews of key personnel. The survey contains thirty descriptive items that focus predominantly on the certification process of each city, which also included information regarding each city's contract compliance process. Information contained in this study is based on 2008 facts and figures. Exhibit I (see page 30) shows the thirty survey questions used in this study.

Ten of the thirteen cities polled completed the survey instrument and the remaining three cities had five or more pending questions. Unanswered questions were noted as not applicable (N/A).

Responses to the survey questions determined the seven data elements used to evaluate the different MWDBE programs. The following attributes were selected on the basis of their measurability.

1. Number of certification employees
2. Average monthly output for each certification employee
3. Certificate's length of validity
4. Length of the certification process by policy
5. Amount of documents required for certification
6. Reciprocity of other entities' MWDBE certification
7. Severity of sanctions for not meeting participation goals (multiple offenders)

Attributes one through five are easily expressed without difficulty relating to numerical representations. Attributes six and seven are depicted as descriptive narratives. These descriptions were evaluated by employing a scoring mechanism to represent a numerical value based on the impact of each city's attribute. The example in Exhibit II (see page 31) shows the scoring system for the reciprocity of other agencies' MWDBE certificates.

### *Baseline Calculation*

The baseline is the quotient of the total amount directly related to the attribute divided by the population of samples having the attribute (i.e. average). This is true for all attributes except for attribute four. The mode or the event with the most occurrences satisfies the best practice for this particular attribute rather than the average.

## **Results**

The scores of each city are summarized in Table VII (see page 38) using a comparative method of evaluation. The data collected relating to the certification employee average monthly output was presented in correlation to the other six attributes.

Additional information of the results of this study are illustrated via tables and charts. Tables VIII through XVII show the answers to the survey questions not used in this comparison.

### Table I. Output

The output for each city surveyed is indicated by the monthly average volume of certifications. The monthly average volume of certifications was divided by the number of certification employees to show the average monthly output per certification employee. The results show that the baseline output is thirty-nine certifications per month; each certification employee processes seven certifications monthly; and the baseline number of certification employees is six. **Table I (see page 32) indicates that Orlando has the lowest number of certification employees (two) but produces the highest average monthly output per certification employee (23). The COH has seven certification employees and the third highest average monthly output (nine) per certification employee.**

Three of the cities included in this study outsource their certification function to outside agencies. MWDBE certifications for the Cities of Dallas and Fort Worth are processed through the North Central Texas Region Certification Agency and certifications for the City of San Antonio are processed by the South Central Texas Regional Certification Agency. These agencies are supported by fees charged to the cities.

### Table II. Reciprocal Certifications

As noted in the Methodology, a scoring system was developed to allow for the study of having a reciprocal procedure for other agencies' MWDBE certification; i.e. the city accepts MWDBE certifications only from specific agencies such as the Department of Transportation or the Small Business Administration. **Table II (see page 33) indicates that the baseline for this comparison is two.**

Eight of the ten cities accept certifications from other entities. **The COH, Denver, Dallas, and Fort Worth only accept reciprocal certifications for the Disadvantaged Business Entities component of its MWDBE program if the certifications are performed by a unified certification program.** The city of Atlanta does not have a reciprocity process.

### Table III. Length of Validity

Table III (see page 34) specifies the range of a certificate's validity from one year to indefinite. **The baseline for expiration of a certificate was calculated at 2 years. The COH's certificates have an expiration of 1 year. Two cities, Dallas and Fort Worth have indefinite certificate validity. All the cities evaluated require an annual update for any changes.** An Affidavit of No Change is always filed to determine if there have been any changes to the structure and ownership of a business for all the cities.

### Table IV. Length of the Certification Process by Policy

**The COH and seven cities have a maximum certification process length of 90 days.** The mode (highest number of occurrences) was used to determine the baseline for this attribute. Using the mode is more appropriate than averaging (mean) since there are no significant gaps in the information collected. **One city (Austin) had a 60 day maximum length of certification and the best practice of 30 days was at the city of Orlando.** The Department of Transportation mandates a 90 day maximum for the Disadvantaged Business Enterprise certification process.

### Table V. Documents Required

Table V (see page 36) shows the maximum number of documents reviewed for each business type and the documents required for all minority / women business enterprise applicants. The required documents for all applicants and the highest number of documents for the three business structures - sole proprietorship, partnership, and corporation were identified, then added to arrive at the maximum number of documents reviewed for certification. Other business structures were not included in the evaluation of the overall number of documents reviewed.

**Our comparison indicates the baseline of 21 (see Table V, Baseline Facts and Figures) documents for all applicants and the three business structures specified earlier. San Antonio, through the South Central Texas Regional Certification Agency, requires 10 documents, COH requires 24 documents, third highest.** Note: Houston certifies for the City's MWBE, SBE, and PDBE programs; the federal DBE program and the State's HUB program, all of which require slightly different documentation.

### Table VI. Sanctions

A scoring system was adopted to evaluate the severity of the maximum sanction for a firm not meeting participation goals multiple times. **Sanctions against multiple offenders vary in severity from written notices to permanent debarment. Firms that continually do not meet MWDBE participation goals in Philadelphia are sanctioned with termination of the contract. Additionally, Philadelphia's departments that consistently fail to achieve their goal are sanctioned with a suspension of their contracting authority.**

Table VI (see page 37) displays the various sanctions imposed to multiple offenders. **The results show a baseline sanction of suspension or debarment for a period of two to five years. The COH is right in line with the baseline for this particular attribute. The City of Orlando has not imposed any sanctions since its MWDBE participants continually achieve their goals.**

### **Conclusion**

The inter-relationship of the attributes used in this comparative study is shown as: **Inputs** (Number of Certification Employees, Reciprocity of Other Entities' MWDBE Certification, Certificate's Length of Validity, Length of the Certification Process, Amount of Documents Required for Certification, Severity of Sanctions for Not Meeting Participation Goals) and **Output** (Average Monthly Output for Each Certification Employee). This implies that average monthly output for each certification employee is affected, directly or indirectly, by the other six baseline attributes.

The results of the Input – Output correlation are summarized in Table VII (see page 38). The correlations of the Inputs to the Output along with the research conducted to support this comparative study indicate the key observations below.

- Higher input does not necessarily mean higher output, the COH has the second highest total input score but does not have the highest monthly output per certification employee.
- Orlando has the smallest total input score but has the highest monthly output per certification employee (see Table VII and Chart I through VII).

- Three cities surveyed have adopted race/gender neutral programs (Detroit, El Paso, and Seattle).
- Three states – California, Washington, and Michigan have adopted race and gender neutral programs replacing MWDBE programs.
- Three cities surveyed employ an outside agency to handle their certification process. (Dallas, Fort Worth, and San Antonio).
- Reciprocity of other agencies' certificates directly impacts the average monthly certification output.
- The COH's overall input score is very close to the baseline, Table VII and Charts I through VII show the performance of COH in comparison to the baseline.

## **Acknowledgements**

The Office of the City Controller Audit Division of the City of Houston would like to thank the following individuals who shared valuable information regarding their MWDBE programs.

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Lisa Alonzo, Office of Economic Development, City of Dallas

Jim Wurzer, Senior Contract Analyst, Purchasing and Contracting Services Division, City of Seattle

Terri Reed, Senior Vice President, Entrepreneurial Development, El Paso Hispanic Chamber of Commerce

Grace Luna, Economic Development Department, City of San Antonio

Exhibit I. Survey Questions

1	How many employees are involved in certification?
2	How many employees are involved in contract compliance?
3	Who performs certification? (Name of Department / Division or Non-City Agency)
4	Is there a fee for certification? If so, how much?
5	Are non-city certifications acceptable or allowed? If so, to what degree?
6	What is the length of validity of your MWDBE certification?
7	What is the volume of certifications you receive per month?
8	How long is your certification process?
9	What documents are reviewed for certification?
10	What are different documents required for the different business structures (sole proprietorship, partnership, corporation)?
11	Are site visits a part of the certification process?
12	What are your Minority/ Women Business Enterprise goals (participation goals):
13	How are goals determined?
14	Who approves the goals?
15	How is the achievement of goals monitored? Is it throughout the contract or at the end of the contract?
16	Do you recruit/solicit business enterprises?
17	How do you recruit/solicit?
18	Do you have any outreach programs?
19	What is the frequency of these outreach programs?
20	Are outreach programs/ workshops held in city offices or outside at the target communities?
21	What types of contracts are awarded to MWDBEs?
22	Are sub-contractors pre-identified in the contracts?
23	Is there a database/register of all qualified MDWBEs?
24	What tools are used to monitor a prime contractor's performance?
25	Are site visits performed to monitor contracts?
26	Is past performance used to determine the award of a contact?
27	Are sanctions stated in the RFP or the contract?
28	What are the sanctions for failure to meet the goals?
29	What happens to multiple offenders?
30	Are sanctions established by ordinance or proceedings?

Exhibit II. Reciprocity Benefit Score Guide

Score	Description
1	City accepts MWDBE certification from other agencies and validates non-City certification until the expiration date.
2	City accepts MWDBE certifications only from specific agencies such as the Department of Transportation or the Small Business Administration.
3	City does not accept MWDBE certification from other entities / Not Applicable.

Table I. Output

	City	# of Employees			Average Volume of Completed Applications (monthly)	Average Monthly Output / Certification Employee
		Contract Compliance	Certification	Total		
1	Houston, TX	10	7	17	65	9
2	Austin, TX	24	5	29	20	4
3	Fort Worth, TX	6	(A)	6	(A)	(A)
4	Denver, CO	11	7	18	30	4
5	Dallas, TX	12	(A)	12	(A)	(A)
6	Orlando, FL	6	2	8	45	23
7	Philadelphia, PA	12	4	16	34	9
8	Atlanta, GA	12	4	16	40	10
9	Chicago, IL	8	10	18	75	8
10	San Antonio, TX	(A)	(A)	(A)	(A)	(A)

Baseline Facts and Figures

Average Volume of Certifications (monthly)	Total Certifications	Number of Cities w/ Certification Employees	Baseline (Average)
	309	7	44
Average Monthly Output/Certification Employee	Total Certifications	Total Number of Employees	Baseline
	309	39	8
Number of Certification Employees	Total Number of Employees	Number of Cities w/ Certification Employees	Baseline
	39	7	6

Legend:

(A)	Not Applicable - certification is performed by an outside agency (North Central Texas Region Certification Agency or South Texas Region Certification Agency)
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Mayor's Office Affirmative Action and Contract Compliance Division Performance Review  
 Comparative Study of Minority/Women/Disadvantaged Business Enterprise Programs for Ten Cities

Table II. Reciprocal Certification

	City	Are non-city certifications acceptable or allowed? If so, to what degree?	Benefit Score
1	Houston, TX	Yes, but only for the DBE program. If a firm is currently certified by the SBA under the 8(a) program or SDB program, the agency to which you are applying will accept your current SBA application in lieu of the AACCC application forms.	2
2	Austin, TX	Yes. SBA 8(a) program and DOT certified certification agencies. Certification with the SBA or DOT will not expedite application process.	2
3	Fort Worth, TX	Yes. SBA 8(a) program and DOT certified certification agencies. Certification with the SBA or DOT will not expedite application process.	2
4	Denver, CO	If you are currently certified by the SBA as an 8(a) and/or SDB firm, you may be eligible for a streamlined certification application process. Under this process, the certifying agency to which you are applying will accept your current SBA application package in lieu of requiring you to fill out and submit this form. NOTE: You must still meet the requirements for the DBE program, including undergoing an on-site review	2
5	Dallas, TX	Yes. SBA 8(a) program and DOT certified certification agencies. Certification with the SBA or DOT will not expedite application process.	2
6	Orlando, FL	Yes. Orange County Government Business Development Division. Once reciprocity is granted, firms receive temporary certification for a maximum period of 4 months (but not beyond the termination of their MWBE status in their originating jurisdiction). Prior to the expiration of the 4 month period, the certification board shall review the firm's file to determine if a company will be granted a certified status or a recognized company pursuant to City Code Section 57.29(2).	1
7	Philadelphia, PA	Yes. OEO now offers an expedited certification process for firms which are currently certified by another governmental agency (local, state and federal, including the Pennsylvania Unified Certification Program). All that is required to receive reciprocity is a copy of your current certification and a completed OEO application. No supporting documentation is needed. Your OEO expiration date will coincide with that governmental agency's expiration date. This new option should greatly streamline the certification process for many applicants.	1
8	Atlanta, GA	No	3
9	Chicago, IL	Yes - Firms that are certified by the Women's Development Center and the Chicago Minority Business Development Council only need to complete a Outside Certification Recognition. This process provides faster access to City of Chicago certification as it reduces the duplication of documents and amount of review needed for each applicant.	1
10	San Antonio, TX	Yes. Reciprocal applicant vendor's certification will be verified through the entity which originally certified the business. Upon successful verification, a certificate will be issued valid through the date of the original certifying entities certification expiration date.	1

Baseline Facts and Figures:

Total Benefit Score	Total Number of Cities with Reciprocal Certification	Baseline (Average)
17	10	2

Benefit Score Guide:

Score	Description
1	City accepts MWDBE certification from other agencies and validates non-City certification until the expiration date.
2	City accepts MWDBE certifications only from specific agencies such as the Department of Transportation, or the Small Business Administration.
3	City does not accept other MWDBE certification from other entities / Not Applicable.

Table III. Length of Validity

	City	Length of Validity (Years)	Length of Validity Score
1	Houston, TX	1	2
2	Austin, TX	3	2
3	Fort Worth, TX	(A)	1
4	Denver, CO	1	2
5	Dallas, TX	(A)	1
6	Orlando, FL	1 (initial application), 2 (renewals)	2
7	Philadelphia, PA	5	2
8	Atlanta, GA	3	2
9	Chicago, IL	1	2
10	San Antonio, TX	2	2

Baseline Facts & Figures (Length of Validity Score):

Total Length of Validity Score for All Cities	Number of Cities with varying length of validity	Baseline (Average)
18	10	2

Length of Validity Score Guide:

0	This city does not have a MWBE program.
1	This city has the longest timeframe for this attribute.
2	This city's certification length of validity is equal or less than 5 years

Legend:

(A)	No expiration (indefinite). Randomly selecting 100 years to represent a certificate's indefinite validity allows us to analyze this standard.
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Table IV. Length of the Certification Process by Policy

	<b>City</b>	<b>Length of the Certification Process</b>
1	Houston, TX	90
2	Austin, TX	60
3	Fort Worth, TX	90
4	Denver, CO	90
5	Dallas, TX	90
6	Orlando, FL	30
7	Philadelphia, PA	90
8	Atlanta, GA	90
9	Chicago, IL	90
10	San Antonio, TX	90

Baseline Facts and Figures:

<b>Length of the Certification Process (Days)</b>	<b>Number of occurrence(s)</b>	<b>Baseline (Mode)</b>
30	1	N.A.
60	1	N.A.
90	8	90

Table V. Documents Required

	City	Number of Documents Required for:				Maximum Number of Documents Required for All Applicants (Number of Documents for All Applicants + Highest Number of Documents Required for the Three Business Types)
		All applicants	Sole Proprietorship	Partnership	Corporation	
1	Houston, TX	17	2	3	7	24
2	Austin, TX	12	2	4	7	19
3	Fort Worth, TX (A)	10	0	1	9	19
4	Denver, CO	16	0	1	7	23
5	Dallas, TX (A)	10	0	1	9	19
6	Orlando, FL	23	2	3	11	34
7	Philadelphia, PA	10	0	1	8	18
8	Atlanta, GA	6	3	6	8	14
9	Chicago, IL	27	2	3	4	31
10	San Antonio, TX (B)	4	1	2	6	10

Baseline Facts and Figures

Total Number of Documents Required for All Applicants	Number of Cities with Varying Documents Requirement	Baseline (Average)
211	10	21

Legend:

(A)	Certifications are done by an outside agency - North Central Texas Regional Certification Agency
(B)	Certifications are done by an outside agency - South Central Texas Regional Certification Agency

Table VI. Sanctions

	City	Multiple Offender Sanction Description	Sanction Score
1	Houston, TX	The director of affirmative action is authorized to suspend any contractor who has failed to make good faith efforts to meet any goal established under this article from engaging in any contract with the city for a period up to, but not to exceed five years.	6
2	Austin, TX	4th Violation: Debarment for 5 years.	6
3	Fort Worth, TX	Permanent debarment from the MWBE program or any city contracting activity.	8
4	Denver, CO	Termination of contract	7
5	Dallas, TX	(A)	(A)
6	Orlando, FL	City has not imposed any sanctions.	0
7	Philadelphia, PA	City Department - suspension of contracting authority when a Dept. consistently fails to achieve its benchmark Contractors - withholding of payments, debarment, suspension, termination of contract.	7
8	Atlanta, GA	Termination of any city contract with the contractor without penalty to the city	7
9	Chicago, IL	Cancellation of Contracts	7
10	San Antonio, TX	Disqualification from Eligibility to Provide Goods & Services to the City for a period not to exceed 2 years;	5

Baseline Facts & Figures

Cumulative Scores for Cities with Sanctions	Number of Cities with Sanctions	Baseline (Average)
53	9	6

Sanction Score Guide:

Score	Sanction Description
0	No sanction has ever been imposed on any MWDBE firm
1	Written Notice
2	Probation
3	City Department - Suspension of contracting authority
4	Withholding of funds / monetary penalty
5	Suspension / Debarment for up to a period of 2 years
6	Suspension / Debarment for up to a period of 5 years
7	Termination / Cancellation of Contract
8	Permanent Debarment

Legend:

(A)	No information was provided / Information was not acquired in time to be included in the study
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Table VII. Summary of Results

Input											
Attributes	Occurrences / Best Practice										
	Baseline (Average/Mode)	Houston	Austin	Chicago	Orlando	Philadelphia	Denver	Atlanta	San Antonio	Dallas	Ft. Worth
Number of Certification Employees	6	7	5	10	<b>2</b>	4	7	4	0 <sup>(A)</sup>	0 <sup>(A)</sup>	0 <sup>(A)</sup>
Reciprocity of other entities' MWDBE certification	2	2	2	1	1	1	2	3	1	2	2
Certificate's length of validity	2	2	2	2	2	2	2	2	2	1	1
Length of the certification process by policy	90	90	60	90	<b>30</b>	90	90	90	90	90	90
Number of documents required	21	24	19	31	34	18	23	14	<b>10</b>	19	19
Severity of sanctions for not meeting participation goals (multiple offenders)	6	6	6	7	0	7	7	7	5	0 <sup>(B)</sup>	<b>8</b>
Total	127	131	94	141	69	122	131	120	108	112	120
<b>Output</b>											
Certification Employee Average Monthly Output	8	9	4	8	<b>23</b>	9	4	10	(A)	(A)	(A)

(A)	This City does not perform a certification function
(B)	No information was provided / Information was not acquired in time to be included in the study
<b>BOLD</b>	Numbers in bold indicate the best practice for each particular attribute

Chart I through Chart VII. How Does Houston Stack-Up?

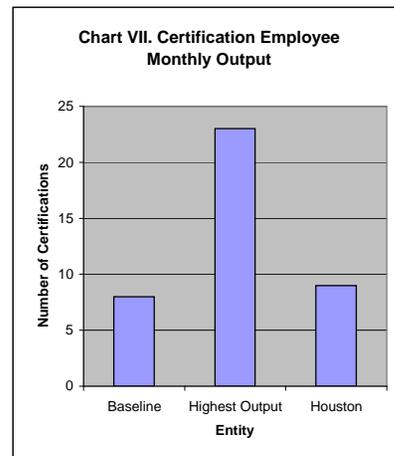
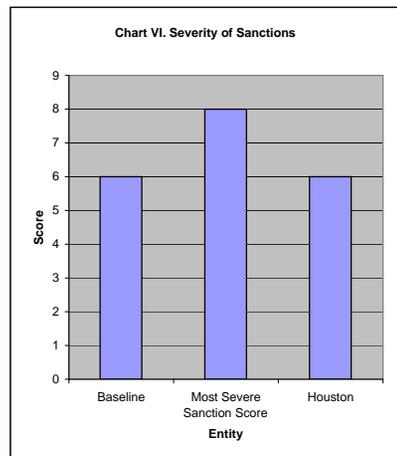
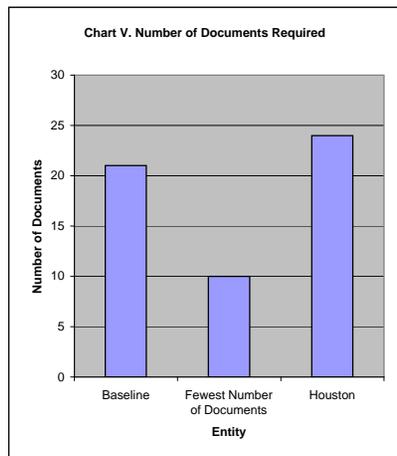
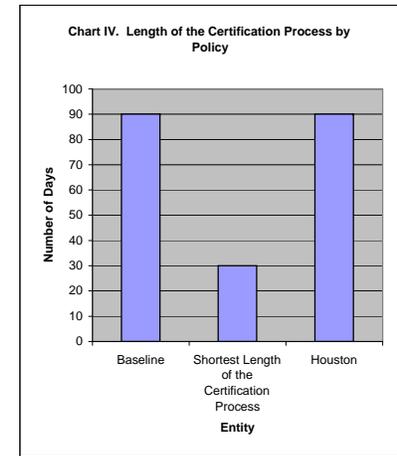
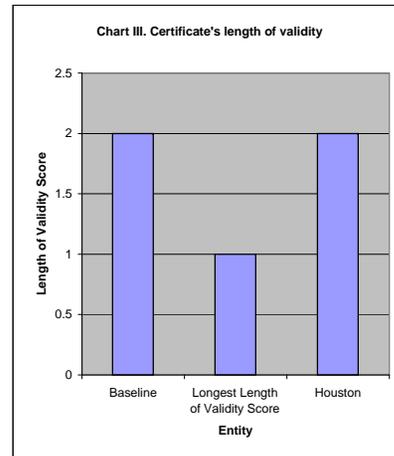
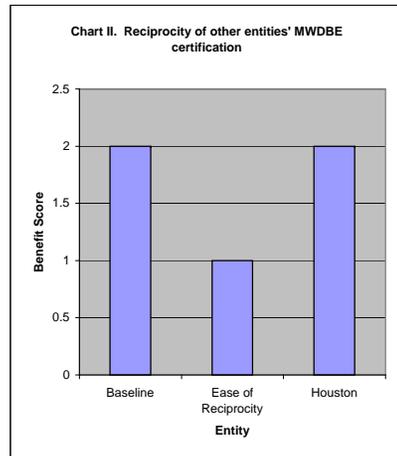
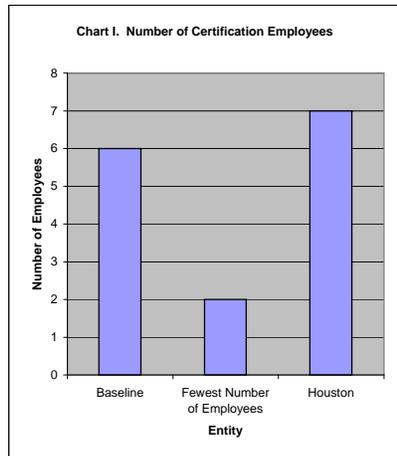


Table VIII. Entity that Performs the Certification and Fee Assessment

	City	Who performs the certification (Name of Department / Division or Non-City Agency)?	Certification fee (in dollars)
1	Houston, TX	Affirmative Action and Contract Compliance Division	0
2	Austin, TX	Department of Small & Minority Business Resources	0
3	Fort Worth, TX	North Central Texas Region Certification Agency	0
4	Denver, CO	Office of Economic Development Division of Small Business Opportunity	200 (A)
5	Dallas, TX	North Central Texas Region Certification Agency	0
6	Orlando, FL	City of Orlando Chief Administration Office - Minority & Women Business Enterprise	0
7	Philadelphia, PA	Office of Economic Opportunity Certification Unit	0
8	Atlanta, GA	Department of Procurement Office of Contract Compliance	0
9	Chicago, IL	Division of Contract Monitoring & Certification (Department of Procurement Services)	250 (B)
10	San Antonio, TX	South Central Texas Regional Certification Agency	0

Table IX. Are Site Visits Part of the Certification Process?

	City	Are site visits part of the certification process?
1	Houston, TX	Yes
2	Austin, TX	Yes
3	Fort Worth, TX	(C)
4	Denver, CO	Yes
5	Dallas, TX	(C)
6	Orlando, FL	Yes
7	Philadelphia, PA	Yes
8	Atlanta, GA	Yes <sup>(D)</sup>
9	Chicago, IL	Yes
10	San Antonio, TX	Yes

Legend:

(A)	Fee assessed for new certification and renewal
(B)	One time fee for certification
(C)	Certifications are performed by an outside agency
(D)	Site visits are performed on a case-by-case basis due to limited staff

Table X. Required Documents for Certification

City	Required Documents for Certification																																																					
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	
Austin, TX	A	A	A	A	A	A	A	A	A	A	A	A	S	A	P	C	C	C	C	C	C	C	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Dallas, TX	A	A	X	A	X	X	A	A	X	A	A	A	A	A	P	C	C	C	C	C	C	C	C	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Fort Worth, TX	A	A	X	A	X	X	A	A	X	A	A	A	A	A	P	C	C	C	C	C	C	C	C	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Houston, TX	X	A	X	A	X	C	A	X	A	A	A	A	S	A	P	C	C	C	X	C	C	C	X	X	A	A	A	A	A	A	A	A	S	P	C	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
San Antonio, TX	A	X	X	A	X	X	X	X	X	X	A	A	X	P	C	P	C	C	C	C	C	C	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Atlanta, GA	X	A	X	A	X	X	A	A	X	X	A	A	X	A	P	X	C	C	C	C	C	C	X	X	X	S	X	X	X	X	A	P	X	X	X	A	P	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Chicago, IL	X	X	S	X	X	A	A	X	A	A	A	A	X	A	P	C	C	C	C	X	C	X	X	X	X	X	X	X	X	A	X	X	X	A	A	A	A	A	A	A	A	A	A	A	A	A	X	X	X	X	X	X		
Denver, CO	X	X	A	A	X	A	A	X	A	A	A	A	X	A	P	C	C	C	C	X	X	X	C	X	X	X	X	X	A	A	A	X	X	A	X	X	X	X	X	X	X	X	X	X	X	X	X	X	A	A	X	X	X	
Orlando, FL	A	A	X	A	X	A	A	P	A	X	A	A	A	A	P	C	C	C	X	C	C	X	X	C	X	X	X	X	X	X	X	A	S	P	X	X	C	A	X	X	X	A	A	A	X	X	X	X	A	A	A	A		
Philadelphia, PA	X	X	X	A	X	X	X	A	A	X	X	A	X	A	P	C	C	X	X	C	C	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	

Attribute Glossary	
1. Proof of US Citizenship or Residency Status	28. Signed and Notarized Affidavit for each minority/woman owner whose combined ownership interest equals 51% or more
2. Proof of Race/Ethnicity/Gender	29. DBE and SBA 8(a) or SDB certifications, denials, and/or decertifications
3. Personal net worth statement	30. Documented proof of contributions used to acquire majority ownership
4. Resume of all Owners, Officers and all Management Staff	31. Documented proof of any transfers of assets to/from your firm and/or to/from any of its owners over the past 2 years
5. Proof firm has been running and functional for last 90 days	32. Certificate of Authority to do business in TX or GA (for out-of-state businesses)
6. Current financial statement including Balance Sheet and Income Statement	33. Invoices and proof of payment for services provided in the areas which you seek certification
7. Copy of bank signature card for business/commercial accounts	34. Personal tax returns and all related schedules for each minority/woman owner for the last 3 years
8. Proof of capital investment in firm	35. Certificate of Partnership
9. Loan agreements, security agreements, and bonding forms	36. Corporate bank resolution
10. Proof of financial, vehicle, equipment and real estate contribution	37. Organizational Chart
11. Documented proof of ownership/signed leases of all real estate owned/leased	38. Buyout rights agreement and/or Profit Sharing Agreement
12. All relevant licenses, registrations, permits or certificates required by law	39. Most recent (4 weeks - Chicago; 12 months- Orlando) payroll for all employees
13. Assumed Name Certificate	40. 3 years of W-2 forms for employees meeting the earning threshold in Question 8
14. Firm's complete tax returns for the last 3 years (2 years for some cities)	41. A table or list identifying any full / part time / seasonal employees
15. Complete copy of Partnership / Joint Venture / Franchise Agreement	42. Most recent bank statements for accounts used by the firm
16. Articles of Incorporation / Organization	43. Line of Credit or Letters of Credit
17. Copy of Corporate Bylaws	44. Certificate of Insurance
18. Copy of Current Corporate Meeting Minutes / First Corporate Meeting Minutes	45. Inventory intended for sale
19. Copy of Any Minutes that affect ownership	46. Documentation of supplier/distributor status
20. Copy of Stock Transfer Ledger or Register	47. Service agreements and letter of engagement
21. Copy of all issued and voided stock certificates	48. Schedule of salaries paid to officers, managers, owners and/or directors
22. Certificate of Incorporation or Organization	49. Trust agreements
23. Membership Certificate (LLC)	50. Completed W-9
24. Proof of Stock Purchase (Inc)	51. Firm's Distribution of profits for the previous year
25. Customer references	52. Professional or General Liability for the firm
26. List of construction equipment and/or vehicles owned	53. List of Board Members by race, sex and date appointed
27. Signed and notarized Affidavit of Non-Interest for each owner	

Tickmark Glossary	
A	Document is required for all applicants
S	Document is required for sole proprietorship
P	Document is required for partnership
C	Document is required for corporation
CP	Document is required for corporation and partnership
X	Document is not required

Table XI. Required Documents

	City	Required Documentation
1	Houston, TX	Work experience resumes for all owners and officers; Firm's signed tax returns for the past 3 years and all related schedules; Customer references including contact name & phone number; Descriptions of all real estate (including office/storage space, etc.) owned/leased by the firm and documented proof of ownership/signed leases; List of equipment leased &/or owned accompanied by appropriate lease agreements &/or proof of purchase; List of construction equipment &/or vehicles owned and titles/proof; All relevant licenses, License renewal forms, Forms & haul authority; Signed and notarized Affidavit of Non-Interest for each owner; Signed & notarized Certification Affidavit for each minority/woman owner whose combined ownership interest equals 51% or more; Birth certificates for each minority/woman owner; DBE & SBA 8(a) or SDB certifications, denials, &/or decertifications; Firm's loan agreements, security agreements & bonding forms; Documented proof of contributions used to acquire majority ownership for each owner; Documented proof of any transfers of assets to/from your firm and to/from any of its owners for the past 2 years; Certificate of authority to do business in TX; Company signature card; Invoices & proof of payment for services provided in the area(s) w/c you seek certification
2	Austin, TX	Proof of U.S. citizenship or residency status; Proof of race/ ethnicity / or gender status; Personal Net Worth Statement; Resume of all owners, officers and management showing education training, work experience and management experience; Proof that firm has been functional & operating for the past 90 days prior to application; Current Balance Sheet and/or Business Plan; Copy of bank signature card (s) for business / commercial accounts; Proof of capital investment in firm; Past or current loan agreements of applicant or between any owners; Proof of vehicle, equipment and real estate contribution; Copy of lease agreement & one cancelled check used to make payment; Copy of all current & relevant licenses, registrations, or certificates required by law for all owners
3	Fort Worth, TX	Proof of U.S. citizenship or permanent residency status; Proof of race/ ethnicity; 3 most recent tax income returns, Resume of all owners and management; Assumed name certificate; Copy of bank signature card(s); Proof of capital investment in firm; Proof of equipment and real estate contribution; Copy of rental or lease agreement for office space; Copy of licenses and/or permits
4	Denver, CO	Work experience resumes for all owners and officers; Personal Financial Statement for each owner; Personal tax returns for the past 3 years; Firm's tax returns and all related schedules for the past 5 years; Documented proof of contributions used to acquire ownership; Signed loan agreements, security agreements and bonding forms; Descriptions of all real estate owned/leased by your firm and documented proof of ownership/ signed leases; List of equipment leased and signed lease agreements; List of construction equipment and/or vehicles owned and titles/proof of ownership; Documented proof of any transfers of assets to/from your firm and/or to/from any of its owners for the past 2 years; Year-end balance sheets and income statements for the past 2 years (new firms - current balance sheet); All relevant licenses; SBA 8(a) certifications; Bank authorizations & signatory cards; Schedule of salaries of all officers, managers, owners and/or directors of the firm; Trust agreements

Table XI. Required Documents (continued)

	City	Required Documentation
5	Dallas, TX	Proof of U.S. citizenship or permanent residency status; Proof of race/ethnicity; 3 most recent tax income returns, Resume of all owners and management; Assumed name certificate; Copy of bank signature card(s); Proof of capital investment in firm; Proof of equipment and real estate contribution; Copy of rental or lease agreement for office space; Copy of licenses and/or permits
6	Orlando, FL	Proof of minority status for all owners and officers; Proof of residency for all owners/directors; Financial Statements for the past 2 years; Payrolls for the past 12 months including the Florida Unemployment Compensation Reports and Wage Listing Reports, include compensation for owners & officers; Completed W-9 forms; Firm's distribution of profits for the past year; Title(s) or Registration(s), bills of sale for firm's vehicles; Purchase/Lease/Rental Agreements/ Bills of Sale for major equipment used by firm; Purchase/Lease/Rental Agreements for principal place of business; Professional Licenses used in the conduct of business; Application and Indemnity Agreement for Bonding; General Liability or Professional Liability for the firm; Key Life Insurance Policies; Promissory Notes, Loan Agreements or any instrument that obligates firm's assets, minority owner's interest in the firm or the minority owner; Profit Sharing Agreement; Affidavit of Intent to use Fictitious Name; Occupational Licenses; Bank Signature Cards; Detailed list of inventory available for resale to the public; Provide 4 copies of completed contracts, Purchase Orders, Invoices to customers (showing detailed description of work performed/ scope of services and rates
7	Philadelphia, PA	Resumes of all owners, principals, officers, partners, management personnel; Personal tax returns for past 3 consecutive years w/ W-2s (if in business less than 3 years); Business tax returns for previous year and current year with all schedules (if in existence for longer than 3 years); Identify & describe all capital investments; Identify & describe all current business loans; Provide copies of all applicable licenses /permits; Equipment list and inventory for suppliers; Payroll summary for the last quarter; Bank statements for last 2 months; Philadelphia business privilege license
8	Atlanta, GA	Bank Signature Cards; Proof of Minority or Female Status; Copy of Current Business License; Resume of all principals of company showing Education, Training, Employment, and Experience with dates; Copy of the lease, rental or management agreement for business premises, Organizational Chart; Email address; Tax ID number; URL (web) address

Table XI. Required Documents (continued)

	City	Required Documentation
9	Chicago, IL	Documents which detail scope of services, term and compensation for every contract listed and the first and last purchase orders associated with each contract; Current organizational chart for firm; All buy-out agreements; Correspondence from the City of Chicago and/or other government entities documenting certification application outcome/final determination and an explanation of the basis for denial if such documentation exists; Decertification document; Debarment documentation; Most recent four weeks of payroll, including employee and management ;All bank signature card(s) and/or corporate resolution regarding access to accounts and signatory(ies); Three years of W-2 or 1099 forms for each employee who met the specified earning threshold (see Question 8); A table or list identifying any full time or part time employees who have worked in the trades in the last year, specifying which trades and the number of employees in each trade; A table or list identifying any seasonal or contract employees who have worked in the trades, specifying which trades and the number of employees in each trade (document the most active period in the last year using a minimum of four months of data); Lease agreements (with contact information for landlord), including a copy of the most recent lease payment; Proof of ownership (deed, mortgage agreement or property tax bill); Most recent bank statement for all account(s) used by the firm; Three years of federal and state corporate tax returns for Applicant firm and all affiliates or, if not applicable, individual tax returns for partners/principals; Three years of the highest level of financial statements available: audited, reviewed, or compiled, including a balance sheet and a statement of income prepared by an independent certified public accountant ( Note: If these documents do not exist, the Applicant firm must certify that fact and provide a written explanation along with whatever financial documents are available); Loan agreements from the last three years for amounts greater than or equal to \$10,000; Line of Credit and/or Letters of Credit; Documents that outline bonding limits; Certificate of Insurance; All current business licenses, permits, and/or pending applications; All listed current individual licenses, permits, certificates, and/or pending applications; Titles and purchase documentation if owned; Lease agreements with proof of most recent payment if leased; If applicable, all inventory (description, quantity, value) held by Applicant firm during the last six months that was intended for sale, not internal use; If applicable, documentation in support of supplier and/or distributor status as stated in Attachment 3 (Policy Regarding M/WBE Certification as a Supplier, Distributor and/or Broker); All service agreements and letters of engagement
10	San Antonio, TX	Proof of Ethnicity/ Citizenship, Assumed Name Document, Licenses or Certificates as required by law; Resumes of owner(s) & key employee(s)

Table XII. Required Documents (for Sole Proprietorship, Partnership, and Corporation)

	City	Sole Proprietorship	Partnership	Corporation	Other
1	Houston, TX	Assumed name certificate, Personal signed tax returns & all related returns for each minority/woman owner for the past 3 years	Partnership/Joint Venture/ Franchise: Official Certificate of Partnership; Original & any amended Partnership or Joint Venture Agreements describing ownership, management & control; Franchise Agreement	Corporation or LLC: Official Certificate of Incorporation or Organization; Official Articles of Incorporation signed by the state official or Articles of Organization; Corporate By-Laws or Rules & Regulations & any amendments; Both sides of all corporate stock certificates & stock transfer ledger or Member Agreement; Current minutes of stockholders & board of director meetings describing ownership, management & control; Corporate bank resolution; Current financial statement including Balance Sheet, Income Statement, & Compilation Letter prepared by an independent CPA or Accountant	N.A.
2	Austin, TX	Assumed Name Certificate, Tax Returns 1040 Schedule C (past 3 yrs.)	Partnership Agreement; Joint Venture Agreement; Franchise Agreement; Tax Returns Form 1065 & all Schedule K-1s (past 3 yrs.)	LLCs: Articles of Organization, Agreement/Regulations/Operating Agreement,; All Issued and Voided Membership Certificates; Tax Returns Form 1120 pg 1-3 or 1120S and all Schedule K-1s (past 3 years) Corporation: Articles of Incorporation; Copy of Corporate By-Laws; Copy of Current Meeting Minutes; Copy of Minutes that Affect Ownership; Copy Stock Transfer Ledger; Copy of Issued and Voided Stock Certificates; Tax Returns Form 1120 pg 1-3 or 1120S and all Schedule K-1s (past 3 years)	N.A.
3	Fort Worth, TX	None	Complete Copy of Partnership Agreement Including Buyout Rights & Profit Sharing	Corporation/ LLC: Certificate of Incorporation or Organization; Articles of Incorporation or Organization; Copy of Corporate Bylaws and Regulations; Copy of First and/or Last Corporate Meeting Minutes; Copy of any Minutes that Affect Ownership; Copy of Stock Transfer Ledger and/or Stock Register; Copy of All Issued and Voided Stock Certificates; Membership Certificates (LLC),;Proof of Stock Purchase (Inc.)	N.A.

Table XII. Required Documents (for Sole Proprietorship, Partnership, and Corporation)

	City	Sole Proprietorship	Partnership	Corporation	Other
4	Denver, CO	None	Partnership or Joint Venture: Original or any amended Partnership or Joint Venture Agreements	Corporation or LLC: Official Articles of Incorporation; both sides of all corporate certificates and firm's stock transfer ledger; Shareholders' Agreement; Minutes of stockholders and board of directors meetings; Corporate by-laws and any amendments; Corporate bank resolution & bank signature cards; Official Certificate of Formation and Operating Agreements with any amendments	Trucking Company: Document proof of ownership of the company; Insurance for each truck owned or operated; Title(s) and registration certificate(s) for each truck owned and operated; List of U.S. DOT numbers for each truck owned and operated Regular Dealer: Proof of warehouse ownership or lease; List of product lines carried; List of distribution equipment owned and/or leased
5	Dallas, TX	None	Complete Copy of Partnership Agreement Including Buyout Rights & Profit Sharing	Corporation/ LLC: Certificate of Incorporation or Organization; Articles of Incorporation or Organization; Copy of Corporate Bylaws and Regulations; Copy of First and/or Last Corporate Meeting Minutes; Copy of any Minutes that Affect Ownership; Copy of Stock Transfer Ledger and/or Stock Register; Copy of All Issued and Voided Stock Certificates; Membership Certificates (LLC), Proof of Stock Purchase (inc.)	N.A.
6	Orlando, FL	Individual tax returns for the past 2 years; Personal Financial Statement;	Limited Partnership Certificate; Partnership Agreement; Franchise Agreement	Corporation / LLC: Corporate Federal Income Tax Returns for the past 2 years; Minutes of the first corporate organizational meeting and minutes reflecting election of current Board Directors and Officers; All stock certificate issued including all cancelled certificates; Stock ledger; Proof of stock purchase; Articles of Incorporation; Corporate By-Laws; Operating Agreement; List of Members by race, sex, and date of appointment; Certificates/ Units issued to each member; Proof of Capital Contribution for each member	N.A.

Table XII. Required Documents (for Sole Proprietorship, Partnership, and Corporation)

	<b>City</b>	<b>Sole Proprietorship</b>	<b>Partnership</b>	<b>Corporation</b>	<b>Other</b>
7	Philadelphia, PA	None	Partnership Agreement	Corporation/LLC: Articles of Incorporation; By-laws with amendments; Number of Shares of All Classes of Stock Issued; Outstanding stock - Corp.; Both Sides of All Corporate Stock Certificates; Firm's Stock Transfer Ledger; Shareholder's Agreement; Official Certificate of Formation and Operating Agreement w/ Amendments - LLCs	N.A.
8	Atlanta, GA	Federal Tax returns with all schedules for the previous 2 years; Equipment rental and purchase agreement; Proof of capital invested	Federal Partnership tax returns for previous 2 years, form 1065 and all schedules; Partnership agreement & amendments; Buy-out rights agreement; Profit Sharing agreement; Proof of capital invested; Certificate of Limited Partnership; Certificate of Existence	Federal Corporate Tax return for the past 2 years including all schedules; Certificate of Incorporation; Articles of Incorporation including Amendments; Minutes of first corporate organizational meeting; Corporate by-laws; Copy of all stock certificates issued to date; Copy of Corporate Stock Ledger; Certificate of Authority to conduct business in Georgia - If firm is organized outside Georgia	N.A.
9	Chicago, IL	Individual Ownership Statement & Personal Net Worth Statement for each owner	Certificate of Limited Partnership; Partnership Agreement; Franchise agreements	All issued & cancelled stock certificates, stock ledgers for the past 3 years; Articles of Incorporation; Corporate By-laws & any amendments; First & 2 most recent Corporate/Board meeting minutes	N.A.
10	San Antonio, TX	Operating Agreement	Partnership Agreement	Certificate of Incorporation; Articles of Incorporation; Stock / Membership Certificates; Stock / Membership Register; By-Laws; Minutes of First Organizational and Last Annual Meeting	N.A.

Mayor's Office Affirmative Action and Contract Compliance Division Performance Review  
 Comparative Study of Minority/Women/Disadvantaged Business Enterprise Programs for Ten Cities

Table XIII. Minority/Women Business Enterprise Goals

	City	Participation Goals (Purchasing)		Participation Goals (Construction)		Participation Goals (Professional Services)		How are participation goals determined?	Who approves the participation goals?	Participation Goal Monitoring	
		MBE (%)	WBE (%)	MBE (%)	WBE (%)	MBE (%)	WBE (%)			How is the achievement of participation goals monitored?	Is it throughout the contract or at the end of the contract?
1	Houston, TX	11	11	14	(D)	24	24	The City's MWDBE/SBE Program was created in 1984, with the passage of Ordinance 84-1309, the first in the State of Texas which set specifics for including minorities and women in City funded contracting. Current goals are based on the ratio of local MWDBE/SBEs to majority businesses in three areas - Purchasing, Construction & Professional Services.	City Council	(C)	Duration of the contract
2	Austin, TX	3.5	6.2	13.7	13.8	15.8	15.8	Annual goals are established by the City Council based on the City Manager's annual report detailing the City's performance in achieving MWBE program goals. The city council recognizes that the availability of MBEs and WBEs is not uniformly present across all areas of Contracting. Therefore, the Director, where appropriate, and pursuant to criteria established by rule, may establish project participation Goals and/or Sub goals for individual contracts.	City Council / Director of the Department of Small & Minority Business Resources	(C)	Duration of the contract
3	Fort Worth, TX	(A)	(A)	(A)	(A)	(A)	(A)	contract by contract basis	Contract Compliance Specialist	(C)	Duration of the contract
4	Denver, CO	(B)	(B)	21.7	6.9	(B)	(B)	Goals are established by the Director of the Division of Small Business Opportunity in conjunction with 3 committees: General Construction Goals Committee, Heavy Highway Construction Goals Committee, Professional Design and Construction Services Goals Committee	City Council	(C)	Duration of the contract
5	Dallas, TX	18	18	25	25	36.3	36.3	(C)	(D)	(C)	End of the contract
6	Orlando, FL	18	6	18	6	18	6	On an annual basis the City Council shall review the levels of minority business enterprise participation for the City's contracting, subcontracting and work force participation, and shall in addition annually review minority population totals and percentages for the Orange County area. After said reviews, the City Council may adjust the percent goals for contracts, subcontracts and work force participation to reflect a more representative share of the minority population or available market of minority business enterprises.	City Council	The Mayor shall designate a Compliance Official whose duty it shall be to monitor contractors with the City for construction services for compliance with minority employment levels and minority business enterprise subcontracting levels during the contractual term	Duration of the contract
7	Philadelphia, PA	25	10	25	10	25	10	The Executive Director of the Office of Economic Opportunity shall provide monthly reports to the Economic Opportunity Cabinet and recommend the Annual Participation Goals. Participation goals are based on a comparison of utilization rates and availability rates.	3	(C)	Duration of the contract
8	Atlanta, GA	20	5	28	6	31	4	Goals are established based on the current disparity study	City Council	(C)	Duration of the contract
9	Chicago, IL	(C)	(B)	21.7	6.9	(B)	(B)	Non-construction contracts - Ordinance; Construction contracts - contract-by-contract basis	Procurement Services	(C)	Duration of the contract
10	San Antonio, TX	15	10	24	11	31	10	Disparity Study / Availability Study	City Council	(C)	Duration of the contract

Legend:

(A)	Goals are determined by a Contract Compliance Specialist on a contract-to-contract basis
(B)	Not Applicable, Participation Goals are not set for this contract type
(C)	No information was provided / Information was not acquired in time to be included in the study
(D)	Houston does not have a WBE goal at this time, however, there is an 8% SBE goal for construction contracts

Table XIV. Recruitment and Outreach

	City	Do you recruit/ solicit business enterprises?	How do you recruit/solicit?	Do you have any outreach programs?	What is the frequency of these outreach programs?	Are outreach programs/ workshops held in city offices or outside at the target communities?
1	Houston, TX	Yes	Bid & contracting opportunity faxes & emails	Yes	At least Monthly	Workshops are held at various locations throughout the city
2	Austin, TX	Yes	Information Workshops on City Procurement Practices & Procedures, Outreach Programs, Seminars	Yes	Ongoing (Quarterly / Upon Request)	Workshops are held at city offices and at target communities
3	Fort Worth, TX	Yes	NCTRCA list	Yes: Symposium, Business Assistance Center	Symposium - once a year	Workshops are held at city offices and at target communities
4	Denver, CO	Yes	Orientation - "How to do business with the City of Denver", Seminars, Trade Shows	Yes	Twice a month - Luncheons, Exhibitor at Trade Shows, attendance of SBA functions	Workshops are held at city offices and at target communities
5	Dallas, TX	Yes	Instituted on a quarterly basis, seminars, multilevel workshops and roundtables designed to provide education, awareness, and information on doing business with the City of Dallas. These roundtables cover upcoming procurement opportunities and allow attend	Yes	Monthly	Workshops are held at city offices and at target communities
6	Orlando, FL	Yes	Workshops, Trade Fairs	No	Not Applicable	Not Applicable
7	Philadelphia, PA	(A)	(A)	Yes	(A)	
8	Atlanta, GA	Yes	Identification of suppliers through business development organizations and participation at various trade shows, supplier diversity groups. Data sharing of upcoming city projects & subcontracting opportunities with other businesses, agencies or jurisdictions in the Atlanta Region.	Yes. Dissemination of information regarding the MWBE program in the form of print & electronic media at trade shows, business functions & community events. Seminars - "How to do business with the City of Atlanta"	Regular intervals	Workshops are held at city offices and at target communities
9	Chicago, IL	Yes	Workshops, Outreach in the wards, Non-profit function participation	Educational outreach programs: Turner Construction Management Program (8 week course); How to get City Certified Workshop	1-5 programs monthly	Workshops are held at city offices and at target communities
10	San Antonio, TX	Yes	website, First Point Info. Office, Small Business Economic Dev. Advocacy Program, Procurement Technical Center, South Texas Women's Center, South Texas Business Fund	Yes	Daily	Workshops are held at city offices and at target communities

Legend:

(A)	No information was provided / Information was not acquired in time to be included in the study
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Table XV. MWDBE Contract Types and MWDBE Database

	City	What types of contracts are awarded to MWDBEs?	Are sub-contractors pre-identified in the contracts?	Is there a database/register of all qualified MWDBEs?
1	Houston, TX	Construction, Purchasing and Professional Services	Yes	Yes, MWDBE / SBE Directory
2	Austin, TX	Construction, Commodities, Professional Services, Nonprofessional Services	Yes	Yes, Certified Vendors Directory
3	Fort Worth, TX	Construction and professional services	(A)	Yes
4	Denver, CO	Construction, Professional Design, Construction Services	Yes	Yes, Contract Management System - Certified Firm Database; Unified Certified Program On-Line Directory (State & City of Denver)
5	Dallas, TX	Construction, Architectural & Engineering, Professional Services, Goods	Yes	Yes, City of Dallas Vendor's List
6	Orlando, FL	Goods, service and construction contracts	Yes	Yes, MWBE Certified Firms Directory
7	Philadelphia, PA	(A)	Yes	Yes, Directory of Certified Firms
8	Atlanta, GA	Gen. Construction, Heavy Construction, Architecture and Engineering, Commodities	Yes	Yes, Office of Contract Compliance Vendor Registry; Minority/Female Business Enterprise Registry
9	Chicago, IL	Construction	Yes	Yes, Directory of Certified Minority and Women-Owned Business Enterprises
10	San Antonio, TX	Construction, Purchasing, Professional Services/ Lease Concessions & Other Service Contracts	Yes	Yes, South Central Texas Regional Certification Agency maintained database

Legend:

(A)	No information was provided / Information was not acquired in time to be included in the study
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Table XVI. Monitoring

	City <sup>(A)</sup>	What tools are used to monitor a prime contractor's performance?	Are site visits performed to monitor contracts?	Is past performance used to determine the award of a contract?
1	Houston, TX	The MWDBE Contract Compliance System (B2G), LCP Tracker - Labor Compliance Software	Yes	Yes
2	Austin, TX	Prime contractors and prime consultants are required to submit a monthly subcontract awards and expenditures report to the City's project manager or contract manager no later than the tenth day of each month. Procedures for monitoring compliance may include, but are not limited to site visits or telephone audits; consideration of requests for substitutions, additions, deletions, or change orders; and review and verification of payments to subcontractors as documented by subcontractor monthly reports.	Yes	Yes
3	Fort Worth, TX	Department Evaluated - Inspectors	Yes	Yes
4	Denver, CO	B2G - Contract Tracking System	Yes	No
5	Dallas, TX	Software (CityBOTS) tracks awards, change orders and subcontractor payments and performance.	Yes	Yes
6	Orlando, FL	Monthly Reports: Prime Contractor's Subcontractor Utilization Report, Subcontractor Workforce Report, Prime Contractor Workforce Report, On-Site Visitations, Progress Meetings, Access Database Tool	Yes	No
7	Philadelphia, PA	On-site inspections & post-contract award compliance, electronic payment tracking, guidelines & regulations, ACIS - Automated Contract Information System	Yes	(A)
8	Atlanta, GA	Subcontractor Project Plan; Monthly Prime Contractor Reports; PRISM - Contract Compliance Management System	Yes	Yes
9	Chicago, IL	Utilization Reports, Subcontractor Affidavits verifying prime contractor's Utilization Report	Yes	Yes
10	San Antonio, TX	City Contract Management System	(B)	Yes

Legend:

(A)	No information was provided / Information was not acquired in time to be included in the study
(B)	Not Applicable. Contract compliance unit has just been established (4th quarter 2008) and site visit monitoring has just recently been adopted as a process for this unit.

Mayor's Office Affirmative Action and Contract Compliance Division Performance Review  
 Comparative Study of Minority/Women/Disadvantaged Business Enterprise Programs for Ten Cities

Table XVII. Sanctions

	City	Are sanctions stated in the Request for Proposals or in the contract?	What are the sanctions for failure to meet the goals?	What happens to multiple offenders?	Are sanctions established by ordinance or proceedings?
1	Houston, TX	Yes	The director of affirmative action is authorized to suspend any contractor who has failed to make good faith efforts to meet any goal established under this article from engaging in any contract with the city for a period up to, but not to exceed, five years.	The director is also authorized to suspend any MBE or WBE who has failed to make good faith efforts to meet all requirements necessary for participation as an MBE or WBE from engaging in any contract affected by this article for a period up to, but not to exceed, five years.	Both
2	Austin, TX	Yes	DSMBR may recommend to the Purchasing Department that the City enforce the following sanctions for each successive violation within a rolling twenty-four month period: 1st Violation: Written notice of violation	2nd Violation: Probation for 6 months; 3rd Violation: Suspension for 2 years; 4th Violation: Debarment for 5 years	Ordinance
3	Fort Worth, TX	(A)	Debarment	Permanent debarment from the MWBE program or any city contracting activity	Ordinance
4	Denver, CO	Yes	Withholding funds, Imposition of monetary penalty , Suspension & termination, Debarment from city contracting activities	Debarment from bidding	Ordinance
5	Dallas, TX	(A)	(A)	(A)	(A)
6	Orlando, FL	No	(D)	(D)	(D)
7	Philadelphia, PA	(A)	City Department - suspension of contracting authority when a Dept. consistently fails to achieve its benchmark Contractors - withholding of payments, debarment, suspension, termination of contract	(A)	(A)
8	Atlanta, GA	Yes	Withholding of 10% of all future payments; Withholding of all future payments, Cancellation of the Project; Termination of any city contract with the contractor without penalty to the city; Refusal of all future contracts or subcontracts with the city for a minimum of 1 year & a maximum of 5 years.	Refusal of all future contracts or subcontracts with the city for a minimum of 1 year & a maximum of 5 years.	Ordinance
9	Chicago, IL	Yes	Withholding of payments, Imposition of Liquidated Damages, Cancellation of Contracts	Debarment from the MWBE program & City Contracting Opportunities	Both
10	San Antonio, TX	Yes	Suspension of the contract; Withholding of Funds; Rescission of Contract; Refusal to accept a Proposal; Disqualification from Eligibility to Provide Goods & Services to the City for a period not to exceed 2 years; Fines	(C)	Proceedings

Legend:

(A)	No information was provided / Information was not acquired in time to be included in the study
(B)	Not applicable. This city does not impose sanctions.
(C)	Not applicable. This city does not have multiple offenders.
(D)	This city has not imposed sanctions.

# EXHIBIT III



**CITY OF HOUSTON**  
Office of the Mayor

## Interoffice

Correspondence  
Affirmative Action and  
Contract Compliance  
Division

To: Annise Parker, Controller

From: Velma Laws, Director

A handwritten signature in blue ink, appearing to read "Velma Laws".

Date: October 15, 2009

Subject: **Affirmative Action and Contract  
Compliance Performance Review**

I have had the opportunity to review the results of the Performance Audit conducted by your team. The process was interesting and insightful, and I appreciate the audit team's efforts to gain a thorough understanding of our operations. As you know, we welcome another set of eyes and minds to help enhance our operational efficiency.

I agree with the information as presented in the report, since it reflects the actions taken to address the issues brought to our attention, as well as those on which we were already working.

In addition, there are several comments I would like to make which may offer some additional clarification on some of the items addressed in the Comparative Study of MWDBE Programs for Ten Cities.

### Employee Output

The data presented in the Comparative Study are based on the number of new applications received, which in FY 08, were 65 applications per month. During the same period, we also processed an average of 98 No-Change Affidavits, a.k.a., Recertifications, per month. Certification Specialists conduct site visits on certified firms every three years during the recertification process, and also process requests for expansion of capabilities. The total monthly average of files processed in FY 08 was 163.

### Length of Validity of Certification

We say that certification is valid for one year because certified firms are required to submit No-Change Affidavits annually. (This is also a requirement of the US Department of Transportation (DOT) Disadvantaged Business Enterprise (DBE) Program. Failure to submit a No-Change Affidavit will result in the removal of certification. Conversely, if a business owner submits the No-Change Affidavit annually, and on time, he or she can retain the certification until SBA Size Standards are exceeded.

### Length of the Certification Process by Policy

The 90 day timeframe allowed to process certification applications is set by the US DOT DBE Program requirements. However, our Division's internal performance measure is 45 days, and tracked and reported monthly.

**Views of Responsible  
Officials**

## **EXHIBIT III**

### **Reciprocity**

We are currently reviewing our Common Certification Agreement with the Houston Minority Supplier Development Council (formerly known as HMBC). Based, based on the information on Reciprocity in the Comparative Study, we called the City of Chicago to see how their reciprocity agreements were structured. We were informed that the City of Chicago has Memorandums of Understanding for an Expedited Certification process with two local private entities in the Chicago area, but not full reciprocity. The two Chicago local private certifying entities are the Women's Development Center (WDC) and the Chicago Minority Business Development Council (CMBDC). The Expedited Certification process allows for businesses that are certified with the WDC and the CMBDC to submit a shortened City of Chicago MWDBE certification application form and requires the WDC and/or CMBDC to send in copies of all documents received for their local private certifications when an applicant business seeks City of Chicago MWDBE certification. The City of Chicago then reviews the shortened application form, the documents received and contacts the applicant business for any additional documents needed for their certification and schedules an on-site visit to complete the certification process. We spoke with Mary Elliott, Deputy Director of Legal Compliance, City of Chicago. We will continue to work with HMSDC, as well as the Womens' Business Enterprise Alliance to refine our Common Certification agreements.

There have also been some exciting developments since the audit team was here.

- In November, we will begin beta testing online S/MWDBE certification and renewal application forms. This will enhance our ability to serve our clients more efficiently, and virtually eliminate the receipt of incomplete application forms.
- This month, and every six months thereafter, the MWBE Management and Contract Compliance system will automatically send notices via email and/or fax to all certified firms requesting validation of contact information. A similar process will occur in January and July for all active contractors in the database. Mechanisms are in place to identify and contact any firms that could not be reached.
- We recently hired a Small Business Development Program Manager to administer the new Surety Support Initiative, and coordinate outreach activities focused on city contracting.

Again, I commend your audit team for a thorough, professional, and interactive process.

cc: Anthony Hall

10/09:24

**Views of Responsible  
Officials**