

## CENTRAL CERTIFICATION (CERT) PROGRAM ELIGIBILITY CRITERIA

**Eligible business**—a business entity whose principal place of business is in the marketplace that:

- is at least fifty-one (51) percent owned by one or more native or naturalized citizens of the United States, or lawfully admitted permanent residents of the United States, and
- is not a broker, or a manufacturer's representative, does not operate as a franchisee or under a franchise agreement, and is not a business in which the owner is also owner or part owner of one or more businesses that is dominant in the same field of operation; and
- performs a commercially useful function; and
- has been in operation for at least one (1) year or, in operation for less than one year and is able to provide documentation showing that it has an established record of generating revenue while performing the business function represented in its application for certification or, if a professional service, is able to provide documentation showing that it possesses applicable licenses or professional certifications or credentials.

**Small Business Enterprise (SBE)**—an eligible business that additionally:

- is not a business dominant in its field of operation, nor an affiliate or subsidiary thereof.

**Minority-owned Business Enterprise (MBE)**—an eligible business that additionally:

- is at least fifty-one (51) percent owned by one or more minority persons, and
- has its management and daily business operations controlled by one or more minority persons who own it.

**Women-owned Business Enterprise (WBE)**—an eligible business that additionally:

- is at least fifty-one (51) percent owned by one or more women, and
- has its management and daily business operations controlled by one or more women who own it.

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## DEFINITION OF TERMS

**Affiliate or subsidiary of a business dominant in its field of operation**—a business that is at least twenty (20) percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.

**Broker**—a business that carries no inventory and that has no written or oral ongoing agreement with any manufacturer or manufacturer's authorized distributor to sell the products of the manufacturer. This definition is not intended to include businesses that actively use just-in-time methods in their normal operation.

**Business, or business entity**—a contractor, developer, vendor, subcontractor, supplier, consultant, or provider of technical, administrative, human, or physical services, regardless of whether operating as an individual or organized as a sole proprietorship, partnership, joint venture, association, cooperative, corporation, or other entity, which is organized for profit.

**Commercially useful function**—a value added function performed by a business enterprise when it is responsible for the execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing, and supervising the work involved. Acting as a conduit to transfer funds to another business does not constitute a commercially useful function unless it is done as a normal business practice of that industry.

**Dominant in its field of operation**—a business having gross revenues that exceed the Minnesota Department of Administration's revenue standard for its category.

**Franchise, or franchised business**—a business operated under an operating agreement obtained from a franchiser to conduct a business where the franchiser retains the right to (1) direct, or set requirements for, certain elements of the business, or (2) receive compensation for use of the franchise or the goodwill or business name, and (3) where the owner does not bear the full risk and responsibility for the performance of the business.

**Manufacturer**—a business that makes or processes raw materials into a finished product.

**Manufacturer's representative**—a business that has an agreement with one or more manufacturers or manufacturer's authorized distributors to sell the products of the manufacturer, but that is not an employee of the manufacturer, and where the owner does not bear the full risk and responsibility for the performance of the business and the products and services offered.

**Marketplace**—the geographical area of the Minnesota counties of Anoka, Benton, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Stearns, Washington, and Wright; and the Wisconsin counties of Pierce and St. Croix.

**Minority**—a citizen of the United States or lawfully admitted permanent resident who is Asian-American/Pacific Islander, Native American, African-American, or Hispanic.

**Minority-owned Business Enterprise (MBE)**—a qualified business located in the marketplace (a) which is at least fifty-one (51) percent owned by one or more minority persons, or, in the case of any publicly owned business, at least fifty-one (51) percent of the stock is owned by one or more minority persons; and, (b) whose management and daily business operations are controlled by one or more minority persons who own it.

**NAICS Code**— The North American Industry Classification System (NAICS) Code is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. Developed by the U.S., Canada, and Mexico, the NAICS Code has replaced the U.S. Standard Industrial Classification (SIC) system. NAICS provides increased comparability of industries across North America, and with the International Standard Industrial Classification (ISIC) system developed and maintained by the United Nations.

**NAPCS Code** – The **North American Product Classification System** is nearing completion. The OMB in collaboration with Canada and Mexico began development of this in February 1999. Various agencies and organizations have been using NAICS as a basis for their procurement programs, requiring that a NAICS code be provided for each good or service to be procured. NAICS is an industry classification system, not a product classification system, and therefore neither intended nor well suited for this purpose. Therefore, NAPCS is intended to incorporate all of the outputs/products of the industries defined in NAICS, with "product" referring to goods produced and services provided. For statistical purposes, a business establishment is assigned one NAICS code, based on its primary business activity. Once NAPCS is complete, multiple NAPCS codes could be linked to any one establishment to indicate its various products.

**Principal place of business**—the primary physical location at which or from which a business performs, is maintained, or operates.

**SIC Code**—the Standard Industrial Classification code as promulgated and maintained by one or more agencies or departments of the United States, and includes any code or system which replaces or succeeds the code in existence on July 1, 1997. "SIC" or "SIC Code" shall also include classification codes promulgated and maintained by the American Institute of Architects or other organizations concerned with contracting which, in the discretion of the Collaborative are deemed more useful or suitable for carrying out the purposes of the CERT Program.

**Small Business Enterprise (SBE)**—a business entity whose principal place of business is in the marketplace<sup>8</sup> that:

- is not a business dominant in its field of operation, nor an affiliate or subsidiary thereof; and
- is not a broker, or a manufacturer's representative, does not operate as a franchisee or under a franchise agreement, and is not a business in which the owner is also owner or part owner of one or more businesses that is dominant in the same field of operation; and
- has gross revenues that do not exceed the criteria consistent with the Minnesota Department of Administration's revenue standards<sup>9</sup>; and
- performs a commercially useful function; and
- has been in operation for at least one (1) year or, in operation for less than one year and is able to provide documentation showing that it has an established record of generating revenue while performing the business function represented in its application for certification or, if a professional service, is able to provide documentation showing that it possesses applicable licenses or professional certifications or credentials.

**Women-owned Business Enterprise (WBE)**—a qualified business concern located in the marketplace<sup>10</sup> (a) which is at least fifty-one (51) percent owned by one or more women, or, in the case of any publicly owned business, at least fifty-one (51) percent of the stock is owned by one or more women; and, (b) whose management and daily business operations are controlled by one or more women who own it.

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<sup>8</sup> This will be interpreted to mean that the firm's principal place of business is in the marketplace.

<sup>9</sup> Currently this is based on SIC codes; however, this will change to NAICS codes in the near future. Small business size standards for companies with SIC codes that do not fit into any of the SIC divisions with calculated size standards will be handled according to the specific revenue limit set by the Minnesota Department of Administration.

<sup>10</sup> This will be interpreted to mean that the firm's principal place of business is in the marketplace.

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## ADDITIONAL TERMS

**Appeal**—Any business whose application for certification/recertification has been denied, or whose certification has been terminated, may appeal in writing to the CERT Collaborative’s Executive Committee. Such appeal shall be decided on submission of grounds/reason, supporting documentation, and where appropriate in the discretion of the appeals entity with an informal conference of the business with the appeals entity.

**Application**—A business shall file an application with the Collaborative or designated certification entity and provide such information on such forms as the Collaborative may reasonably require. The Collaborative may require information:

- that will establish that the business meets and will continue to meet the definition of an SBE, MBE, or WBE, as the case may be, for the entire period of certification; and
- that delineates the availability and qualifications of such business; and
- for the areas of contracts such business seeks; and
- on the number and dollar amount of past contracts it has been a party to or participated in as a subcontractor.

**Certification of another jurisdiction**—The Collaborative may waive all or part of the application process, and waive the submission of information required thereunder, as to any such business which has been certified under a program materially similar to the CERT Program. This authority is not intended to circumvent any agreements that may exist to engage in a joint certification process with other governmental entities. Program(s) for which this waiver may apply shall be designated from time-to-time by the CERT Collaborative.

**Certification term (three years)**—The CERT certification is valid for a thirty-six (36) month period following the date granted. A certification may be renewed for additional three-year periods by completing a recertification application.

**Change in circumstances**—If the Collaborative or Certification Processor determines that any such business no longer meets the definition of SBE, MBE, or WBE, as the case may be, the Collaborative or Certification Processor may terminate the certification of such business. Each such business, which has been certified, is and remains under a continuing obligation to report any change in circumstances that would cause it not to meet the appropriate definition.

**Joint applications**—The Collaborative may cooperate with any other governmental entity having a program materially similar to the CERT Program in providing for a joint or mutually acceptable application process.

**Material misstatement of fact**—If the Collaborative or Certification Processor determines that any business made a material misstatement of fact in its application for certification or in any information submitted in support of the application, whether intentional or by mistake, the Collaborative or certifying entity may determine either not to certify the business for participation in the CERT Program, or to terminate the certification of the business if already granted.

**Periodic review**—The certification for each certified business may be reviewed periodically to determine that it continues to be eligible for certification and meets the definitions of an SBE, MBE, or WBE, as the case may be, but such review shall take place at least every three (3) years after its initial certification. The Collaborative may require each certified business which has been certified to submit all information necessary to verify the continued eligibility of such business, and the failure of such a certified business to provide the information shall automatically terminate its eligibility to participate in the CERT Program.

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