



JACKSON WALKER L.L.P.

DOING BUSINESS WITH THE GOVERNMENT AND BIG BUSINESS - CERTIFICATION OPTIONS

By Stephanie L. Chandler, Jackson Walker L.L.P.

Minority (MBE) and women-owned business (WBE) certification programs are intended to help small businesses be successful for the future. Certification agencies were formed with the theory that there is a substantial community benefit by building community-based small businesses, which in turn revitalizes neighborhoods, creates jobs, and encourages economic growth. Companies like yours, just starting or in a growth stage, can benefit from the wide-range of services offered by certification agencies. Certification can benefit you in a number of ways, including the provision of additional support for government contractors, preference in the bidding process, access to capital, management and technical assistance, and export assistance - just to name a few.

There are many different certifications available to companies where the majority owners and parties controlling the management of the firm is an individual or group of individuals who are the member of a minority group or women. Very generally, they can be grouped into three different categories:

1. Federal Certifications: Federal certifications include certification under the 8(a) program, certification as an SDB (Small Disadvantage Business) or certification as a

HUBZone business (dependent on the geographic location of the business). For further information see: www.sba.gov/8abd/; and www.sba.gov/sdb/indexfaqs.html; and www.sba.gov/hubzone/internet. Additionally, disabled veteran certifications are also opening substantial doors. Federal Supply Service Schedules, Government-wide Acquisition Contracts (GWACs), and PBS Construction and Service Contracts are all avenues that service-disabled veteran-owned small businesses can use to work with the General Services Administration and the rest of the federal government. More information is available at http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentId=15808&contentType=GSA_OVERVIEW. These certifications are helpful if your target customer base is the federal government, the military or another federal agency. Additionally, the government is now doing more to support women-owned business so, for example, if you get a certification for WBENC (see below), you may also qualify for federal opportunities.

2. State Certifications: Each state has its own certification program which generally applies only to contracting opportunities with the issuing state. In Texas, this is referred to as obtaining a HUB Certification from the General Service Commission. For further information, see <http://www.cpa.state.tx.us/procurement/prog/hub/hub-certification/>.

Additionally, you can receive automatic HUB certification if you have been certified by one of HUB's certification partners: Central & South Texas Minority Business Council, City of Houston, Dallas/Fort Worth Minority Business Dev. Council, Houston Minority Business Council, Texas Department of Transportation, Women's Business Council – Southwest, or Women's Business Enterprise Alliance.

3. Private Industry; Local Government: There are multiple private industry supported certifications. For example, Women's Business Enterprises National Council (WBENC) (www.wbenc.org/) is one certification agency that

operates on a national level. It certifies businesses as women-owned business for a national membership base (such as Walmart, Valero, and Costco). In San Antonio, South Central Texas Regional Certification Agency (SCTRCA) (www.sctrca.org) certifies businesses as women and/or minority owned. Their certification, is recognized by locally owned or controlled businesses and local or regional governmental agencies such as VIA, SAWS, SAHA, Edwards Aquifer Authority, Bexar County, CPS, HEB, and AT&T. The Central South Texas Minority Business Council (CSTMBC) (www.cstmhc.org/) is affiliated with the National Minority Supplier Development Council, Inc., a national network with 39 regional councils across the country. It certifies businesses as minority owned, but does not provide women-owned business certifications and is accepted by buyers for private businesses. It has approximately 3,500 corporate members. CSTMBC serves minority businesses in Austin, San Antonio, Laredo/ Eagle Pass/Del Rio, El Paso, Midland/Odessa, and Harlingen/McAllen/Brownsville – the entire Rio Grande Valley, and everything in between. They have offices in Austin, San Antonio, and Harlingen. Their certification is recognized by HEB, SBC Communications, TXU, Dell, Boeing, Coca Cola, Johnson Controls and many others.

Regardless of which type of certification you obtain, you, as a minority or woman business owner, might also consider registering with the Central Contractor Registration (CCR) in relation to federal government contracting opportunities. Companies can register with this service, even if they have not obtained a federal certification. Their website is located at: <https://www.bpn.gov/ccr/default.aspx>. Similarly, you can register with the State of Texas at https://cmlreg.cpa.state.tx.us/Pre_reg_1.cfm.

Of the foregoing, the federal certifications are typically the most challenging and time consuming to obtain, with the state HUB and regional private industry certifications typically being the quickest and simplest to apply for and receive. Depending on whom your customers and prospective

customers are, what your ownership structure is, and where you wish to do business, one of the many certification options may be beneficial in realizing your business plans.

When I work with companies considering becoming certified, there are often some corporate updates that may be necessary. For example, your corporate records should reflect the ownership and control by the individual for which the certification is being requested. In Texas, this typically requires that if the owner is married and the entity was formed after the couple was married that the community property interest reflect ownership and control. For example, I typically recommend a separate property agreement whereby the spouse's community property interest is gifted to the required business owner. Additionally, minutes need to reflect that the board is controlled by individuals for whom the certification is available. For example, many companies I work with have a two person board where both husband and spouse are board members. Before certification as a woman-owned business, the board will need to have a majority woman board. Additionally, the most senior officer needs to be the person for whom certification is being requested.

As noted from the blue ribbon listing of companies that offer certification companies, if you are a large buyer, you can also benefit by developing a supplier diversity program. This can provide you access to unique products and services from business owners that are ecstatic to have the opportunity to work with a large customer. All of this can be accomplished while also benefiting your local community. Additionally, many public companies are beginning to have shareholder pressure to participate if participation has not been historical.

Stephanie Chandler is a partner at Jackson Walker L.L.P., assisting businesses with formation and structuring, contract negotiation, acquisitions and sales of their venture, joint venture development and other issues for growing companies and can be reached at schandler@jw.com or (210) 978-7704.