

ADMINISTRATIVE POLICY NO. 04-01

EQUAL BUSINESS OPPORTUNITY CERTIFICATION

**2009
CITY OF GRAND RAPIDS**

Administrative Policy No. 04-01

City of Grand Rapids

SUBJECT: EQUAL BUSINESS OPPORTUNITY CERTIFICATION

PURPOSE: In support of the City of Grand Rapids Mission Statement and the City Commission's Sustainability Plan, the purpose of this Policy is to enhance the growth and development of small business and provide access and equal opportunity in the performance and administration of the City's acquisition process.

POLICY: The City of Grand Rapids Equal Opportunity Department will certify Micro Local Business Enterprises (Micro-LBEs) that desire to participate as such under the City of Grand Rapids Equal Business Opportunity Certification Policy.

SECTION 1: DEFINITIONS

1. Certification: The process utilized to determine whether a business meets eligibility criteria as a bona fide Micro-LBE.
2. Commercially Useful Function (CUF): Those functions performed when a business does all of the following:
 - Is responsible for the execution of the work in a contract
 - Actually manages or supervises the work
 - Performs work in the contract that is its normal business, service or function
 - Does not subcontract out portions of the work that is greater than normal industry practices.

3. Decertification: The process by which it is determined that a business is precluded from participation as a Micro-LBE.
4. Equal Business Opportunity (EBO) Policies: The Certification, Construction, Professional Services, and Goods and Services policies adopted by the Grand Rapids City Commission to accomplish the City's Mission Statement and City Commission's Sustainability Plan in the award of contracts.
5. Eligibility Fraud: The owner is claiming membership in a group to which s(he) does not belong in order to benefit from group membership. For example, a business owner may claim to be a small business in order to win contracts. Alternatively, a business owner may not meet net worth requirement and choose to hide assets or get creative with the numbers so that the business continues to qualify as a Micro-LBE.
6. Figurehead owner: The purported owner does not truly control, manage and/or own the business. The figurehead is installed in order to qualify for diversity programs. For example, a figurehead owner is the named owner of a business who may be a family member but does not actually manage and/or own the company.
7. Front Company: A Micro-LBE company that wins a contract and passes the contract on to a non-Micro-LBE for a fee or does not provide a Commercially Useful Function (CUF).
8. Micro-Local Business Enterprise: A business certified for a period of time by the City of Grand Rapids as meeting special business requirements such as being an established business, registered as a small business with the Small Business Administration; and meeting additional requirements for business size, location, and

personal net worth of the controlling owners in order to qualify for bid discounts under the City's EBO policies.

9. Non-Compliance: The condition existing when a Micro-LBE fails to meet the requirements of this Policy.

SECTION 2: CERTIFICATION BY THE CITY OF GRAND RAPIDS

2.1 GENERAL REQUIREMENTS:

Business enterprises that desire to participate under the City of Grand Rapids Equal Business Opportunity Policies as certified Micro-LBEs may qualify as such by submitting a completed certification application to the Equal Opportunity Department, along with proof of the following:

- a. Business Age: Verification that the business has been in operation for a minimum of two full years.
- b. Registration: Verification of registration with the following entities:
 - (1) Federal Government's Central Contractors Registry (CCR) database as a small business.
 - (2) City of Grand Rapids Purchasing Department.
- c. Location: Verification that the principle place of business has been in operation for at least six (6) months from a fixed office located in Kent County, Michigan. The local office must operate in accordance with the following criteria:
 - (1) The local office functions on a daily or regular basis, and provides all services to operate the business for which certification is sought;
 - (2) The local office contains all fixtures, equipment and/or space necessary to operate, including but not limited to, as appropriate, computer(s), software, copy machine(s), furniture, vehicle(s), tools, appliances and/or machinery necessary

to operate the business for which certification is sought;

(3) The local office must be the main office for assigned personnel who conduct the business' activities necessary to operate the local business for which certification is sought;

- d. Business Size: Verification that the latest three-year average business revenue or number of permanent employees is 25% or less of the Small Business Administration's (SBA) NAICS industry small business standards.
- e. Personal Net Worth: Verification that the controlling owner's (totaling 51% or more) individual personal net worth, as determined for SBA (8a) status (13CFR124.104.c(2)), is \$250,000 or less at the time of initial application. For continued Micro-LBE eligibility after admission to the program, net worth shall not exceed \$750,000.

Completed applications will be processed within 45 days from date received by the Equal Opportunity Department.

The City reserves the right to amend and/or revise this policy. Amendment or revisions to this policy may result in some businesses that are currently certified as Micro-LBEs losing their status as such due to failure to meet qualification requirements as amended and/or revised.

2.2 REPORTING CHANGES:

Businesses listed in the Micro Local Business Enterprise Directory are required to inform the City's Equal Opportunity Department immediately of any change in the location, ownership, management, officers, operation or control of the business and any other pertinent information that affects Micro-LBE status. If the percentage of

Micro-LBE ownership drops below fifty-one percent (51%), the Micro-LBE must notify the City's Equal Opportunity Department immediately of such change.

Failure to report changes to status as required by this section may result in decertification.

2.3 TERMS OF CERTIFICATION:

A business may be certified as a Micro-LBE by the City of Grand Rapids for one nine (9) year period (nine consecutive years). A Micro-LBE must submit annual reviews to the Equal Opportunity Department. Micro-LBEs failing to complete annual reviews shall be deemed to have their certification lapse and may no longer be certified as such under this policy.

During any period in which a Micro-LBE is certified to participate under the Equal Business Opportunity policies, all books and records of the Micro-LBE, which may prove or disprove Micro-LBE eligibility, shall be open for inspection and examination by the City Manager or his/her designee upon reasonable notice.

2.4 GRADUATION

At such time as a business completes nine (9) consecutive years of certification and/or exceeds the established criteria for the Micro-LBE certification, the business shall be deemed to have graduated from the Micro-LBE program and shall no longer be eligible to participate in the Equal Business Opportunity Programs as a certified Micro-LBE. The business will be duly notified of its graduation.

2.5 DECERTIFICATION:

The Equal Opportunity Department may decertify a Micro-LBE that it determines to be in non-compliance. Grounds for decertification include, but are not limited to:

- A. Graduation upon the expiration of the certification period.
- B. Early voluntary graduation or self-removal.
- C. Early graduation when one or more of the owners upon whom personal net worth is based exceeds the maximum \$750,000.
- D. Termination for good cause. Examples of good cause include, but are not limited to, the failure to maintain eligibility, cessation of business operation, submission of false information on application, debarment from doing business with the City of Grand Rapids.
- E. The business has changed to the extent that it no longer satisfies certification requirements of this Policy.
- F. The business fails to complete annual reviews pursuant to Section III, 3.1 of the Administrative Guidelines for Equal Opportunity and Non Discrimination under City Commission policy 600-10.
- G. The business is determined to be a figurehead owner, front company or to have committed eligibility fraud.

Micro-LBEs decertified by the City of Grand Rapids are precluded from participation under the EBO Policies as Micro-LBEs.

2.6 APPEAL OF DECERTIFICATION:

Administrative decisions relating to decertification by the Equal Opportunity Department may be appealed pursuant to the EBO Construction Guidelines, Section 13: and the EBO Goods & Services Guidelines, Section 9, which state:

Administrative decisions relating to certification may be appealed to the Community Relations Commission. Any person wishing to file such an appeal must do so within five

(5) working days of the notice of the administrative decision from which an appeal is taken.

The request for an appeal must be in writing, addressed to the City of Grand Rapids Equal Opportunity Department Director, and must make reference to the specific action or actions at which the appeal is directed. Within ten (10) calendar days of the request for appeal, the Community Relations Commission shall hold a hearing at which interested parties may present evidence and arguments in support of their respective positions. Failure of a party to appear at the hearing shall be deemed to be final acceptance of the administrative decision. Within five (5) working days of the hearing, the Community Relations Commission shall issue its written decision. The Community Relations Commission may affirm, modify or reverse all or any part of the administrative decision. The decision of the Commission Relations Commission shall be final.

SECTION 3: DIRECTORY OF MICRO LOCAL BUSINESS ENTERPRISES

The City of Grand Rapids Equal Opportunity Department shall compile and maintain a directory of businesses that have been certified pursuant to this Policy.