

**Small, Minority, Woman, African American, Disabled Individual  
and Veteran Business Enterprise Program**



**Certification Policy & Procedure Manual**

**Adopted September 18, 2009**

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## **Mission Statement of the SCTRCA**

To increase participation of small, minority, woman, African American, disabled individual, and Veteran business enterprises in their pursuit of contracting and procurement opportunities by providing unified certification services.

## **Applicability and Purpose**

The standards and procedures established in this manual are applicable to any request from a for profit business entity seeking local certification.

The purpose of certification is to assist individuals who have experienced systemic or other forms of discrimination.

This certification is the local certification program not to be confused with the Disadvantaged Business Enterprise (the “DBE”) program which is a federal program based upon Federal Law.

## **SCTRCA Responsibilities**

The Agency’s Board of Directors is ultimately responsible for ensuring that the Agency’s policies and applicable federal, state and local regulations are implemented and enforced. The Agency’s Executive Director is the operational manager responsible for the overall implementation, monitoring and reporting of the certification process. The Agency’s staff is assigned the responsibilities for the day-to-day implementation of the Agency’s certification process.

## **Proprietary Disclosure**

The agency will safeguard from disclosure, information that is covered by federal, state and local laws and regulations, and that reasonably may be regarded as confidential, personal and business information. Disclosure of information applicable to and provided as a result of the certification process will only be with the owner’s advice and/or consent.

## **Applicant Affirmation/Confirmation**

The Applicant is responsible for satisfying the requirements of the application and/or renewal process. The Applicant understands this to include the submission of a completed application or affidavit and of any and all requisite information, documents or materials necessary for the SCTRCA to review and assess the application or affidavit. The Applicant acknowledges that renewal affidavits are required to be properly submitted within a particular timeframe, within sixty (60) days prior to certification expiration, and that failure to meet the renewal deadline will result in the Applicant losing its certification.

The Applicant is responsible for becoming familiar with the application and/or renewal process and understanding the jurisdiction of the SCTRCA, the geographical area within which the SCTRCA administers its certification program, as it relates to any possible fees and charges that may apply to Applicant in the application and/or renewal process. The Applicant accepts responsibility for any and all fees and charges reasonably incurred for services provided by the SCTRCA should the Applicant reside outside of the SCTRCA's jurisdiction.

## **1.0 Definition of Terms**

<b>AABE</b>	African American Business Enterprise: A business structure owned operated and controlled by an African American minority group member(s) who has at least 51% ownership.
<b>Agency</b>	The South Central Texas Regional Certification Agency.
<b>Appeal</b>	A process by which the certification eligibility decision made by the SCTRCA is reviewed.
<b>Applicant</b>	One who submits a certification application or renewal affidavit to the SCTRCA for Certification.
<b>Application</b>	Document required in making a request for Certification.
<b>Board</b>	The Agency's Board of Directors composed of representatives from each of the member entities.
<b>Business Day</b>	Any day other than (i) a Saturday or a Sunday, or (ii) a legal holiday or the equivalent of which certifying institutions generally are authorized or required to close.
<b>Business Structure</b>	A sole proprietorship, partnership or corporation as defined by its assumed name certificate, articles of formation, operating agreement, and/or partnership agreement.
<b>Certification</b>	The certification of a firm as a Small, Minority, Woman, African American, Disabled Individual, and Veteran business enterprise by the SCTRCA.
<b>Challenge</b>	A formal filing by a third party to rebut the presumption that a particular individual is not a small, minority, woman, African American, disabled individual or Veteran business enterprise.
<b>Control</b>	Primary power to direct the management of a business enterprise; specifically, the party must possess the power and ability to direct or cause the direction of the management and policies of the firm

to make the day-to-day, as well as major decisions on matters of management, policy and operations.

**Corporation**

A separate legal entity incorporated under the authority of federal or state laws, apart from the individuals that may own or manage it.

**DIBE**

Disabled Individual Business Enterprise: A business structure that is at least 51% owned, operated and controlled by a Disabled individual against whom there is a recognized/demonstrated history of discrimination because of physical disability. Disabled individual means a person (a) with one or more disabilities as defined by the Americans with Disabilities Act (ADA) and amendments thereto (for purposes of applicability under the certification statutes, ordinances, rules and regulations governing the State of Texas), (b) having a record of such disabilities, and (c) regarded as having such disabilities.

**Expertise**

Demonstrated skills, knowledge or ability to perform in the field of endeavor in which certification is sought by the business enterprise as defined by normal industry practices.

**Group Member(s)**

African Americans, Hispanic Americans, Asian Americans, and American Indians legally residing in or that are citizens of the United States of America or its territories, as defined below:

African American: Persons having origins in any of the black racial groups of Africa as well as those identified as Jamaican, Trinidadian or West Indian.

Hispanic American: Persons of Mexican, Puerto Rican, Cuban, Spanish or Central or South American origin.

Asian-Pacific American: Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.

Asian-Indian American: Persons whose origins are from India, Pakistan, Bangladesh, Sri Lanka, Maldives Islands, Bhutan, or Nepal.

Native American: Persons having no less than 1/16 percentage origin in any of the American Indian Tribes, as recognized by the United States Department of the Interior, Bureau of Indian Affairs and as demonstrated by possession of personal tribal role

documents. Also to include persons who are Eskimos, Aleuts, or Native Hawaiians.

*A Native Hawaiian is any individual whose ancestors were natives prior to 1778 of what now comprises the State of Hawaii.*

**Immediate Family Member** Any relative that can be considered a father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law.

**Jurisdiction** The geographical area in which the SCTRCA administers its certification program, including the following counties: Atascosa, Bandera, Bexar, Comal, Frio, Guadalupe, Kendall, Kerr, McMullen, Medina and Wilson, as may be further delineated from time to time. The SCTRCA also provides certification services to a limited extent, in other counties to include Caldwell, Goliad, Hays, Karnes and Uvalde counties, as may be determined from time to time.

**Management** To direct or carry on daily business affairs; to make and keep business enterprise compliant.

**MBE** Minority Business Enterprise: A business structure that is owned, operated, and controlled by an ethnic minority group member(s) who have at least 51% control.

**Ownership** Having at least 51% of the issued stock holdings, partnership interest and must enjoy the customary incidents of ownership, and share in the risks and profits commensurate with their ownership interests, as demonstrated by the substance, not merely the form of arrangements.

**Partnership** An association of two or more persons who function as co-owners of a business.

**Professional Services** The consulting, designing, advising or conducting of services in any of the areas of academia such as architecture, engineering, accounting, economics, law, medicine, etc.

**Renewal Affidavit** Document required to be completed for processing renewal certification(s).

**SBA** Small Business Administration.

**SBE** Small Business Enterprise: A business structure that is formed with the purpose of making a profit, which is independently owned and

operated and which meets the United States Small Business Administration (SBA) size standard for a small business (see <http://sba.gov/size> click “table”).

<b>SCTRCA</b>	The South Central Texas Regional Certification Agency.
<b>Site Visit</b>	An onsite audit of the applicant firm’s place of business.
<b>Sole Proprietorship</b>	A business in which one person owns 100% of assets of the business and is solely liable for all debts of the business.
<b>VBE</b>	Veteran-Owned Business Enterprise: A business structure that is at least 51% owned, operated and controlled by an individual who served in the United States active military, naval, or air service, and who was discharged or released under conditions other than dishonorable. <i>Please note: This certification type should not be confused with the Service Disabled Veteran designation available through the Small Business Administration.</i>
<b>WBE</b>	Woman-owned Business Enterprise: A business structure that is owned, operated and controlled by one or more women who have a total of at least 51% or more ownership.

## **2.0 Eligibility Standards**

At a minimum, the following standards will be used by the Agency as part of the certification process. Owners must be legal residents or citizens of the United States or its territories. The process will be used in determining whether a firm is a small business concern, or owned and controlled by one or more minorities, women, African American, disabled individuals, and/or Veterans. If eligible the firm will be certified as a Small Business Enterprise (SBE), Minority Business Enterprise (MBE), Woman-owned Business Enterprise (WBE), African American Business Enterprise (AABE), Disabled Individual Business Enterprise (DIBE), or Veteran-owned Business Enterprise (VBE). A certified firm is one that has met **ALL** eligibility standards for the respective certification type.

## **3.0 Certification Policy**

This policy addresses Certification within the following counties: Atascosa, Bandera, Bexar, Comal, Frio, Guadalupe, Kendall, Kerr, McMullen, Medina and Wilson. The SCTRCA also provides certification services in Caldwell, Goliad, Hays, Karnes and Uvalde counties to a limited extent.

### **3.01 Procedures for Certification & Recertification**

#### **A. Allocation of Burdens of Proof**

1. The SCTRCA has adopted the same standard of review as 49 CFR 26.61 (2008) in that when determining whether to certify a firm as eligible for certification as a small, minority, woman, African American, disabled individual or Veteran-owned business, the firm seeking certification has the burden of demonstrating to the agency, by a preponderance of evidence, that it meets the requirements of standards concerning group membership, business size, ownership, management and control.
2. Acceptable forms of identification for meeting the burden of proof requirements are as follows:

#### **B. Required Documentation**

1. Completed Application for Certification;
2. Proof of Ethnicity/Citizenship (see Rules that govern group membership determinations);
3. Assumed Name Document (Doing Business As – DBA);
4. Franchise Agreement (as applicable)
5. Any applicable licenses or certificates, as required by law;
6. Résumé(s) of owner(s) and key employee(s);
7. Documentation from medical Doctor or government agency verifying disability; and
8. Document DD-214 from the Department of Defense verifying military service.

#### **C. Applicable Based on Business Structure**

1. Sole Proprietorship;
2. Limited Liability Corporation;
3. Partnership (Limited Partnership, Limited Liability Partnership); or
4. Corporation.

#### **D. Additional documentation**

Additional documentation may be required during the application review process. Such additional documents may include but not be limited to invoices, tax statements and cancelled checks.

### **3.02 Rules that Govern Group Membership Determinations**

A. If the agency has a reason to question whether an individual is a member of a group that is presumed protected, it must require the individual to submit evidence, that he or she is a member of said group.

B. In making such a determination, the agency may require and the applicant shall produce appropriate documentation of group membership.

C. Acceptable forms of appropriate and valid documentation regarding group membership are as follows:

1. Birth Certificate;
2. Permanent Alien Resident Card;
3. Certificate of Naturalization;
4. U.S. Passport;
5. Valid Driver's License / State Issued ID Card;
6. Tribal Card; or
7. Commonly Recognized Religious Record.

The decisions concerning membership in a designated group are subject to the certification appeals procedures.

### **3.03 Rules Governing Business Size Determinations**

To be an eligible Small Business Enterprise (SBE) firm, including its affiliates, a firm must be a small business, as defined by the Small Business Administration (SBA). The Agency must apply the appropriate, current size standard to the type of work the firm seeks to perform. The firm is not an eligible SBE if the firm, including its affiliates, has had average annual gross receipts over the firm's previous three fiscal years, in excess of \$28.5 million or current year SBA standard.

### **3.04 Rules that Govern Determinations of Ownership**

The SCTRCA must consider all facts in the record, viewed as a whole, in determining whether the individual(s) in a firm own(s) the firm. To be an eligible minority, woman, African American, disabled individual, or Veteran-owned business enterprise, a firm must be at least 51% owned by a minority(ies), woman(en), African American(s), disabled individual and/or Veteran.

The firm's ownership by a small, minority, woman, African American, disabled individual and/or Veteran must be real, substantial, and continuing, going beyond pro forma ownership of the firm as reflected in ownership documents. The small, minority, woman, African American, disabled individual or Veteran owner(s) must enjoy customary incidents of ownership, and share in the risks and profits commensurate with their ownership interests, as demonstrated by the substance, not merely the form of arrangements. In making such a determination, the agency

may require and the applicant shall produce appropriate documentation of group membership to include personal financial statements.

- A. In the case of a corporation, such individual(s) must own at least 51% of each class of voting stock.
- B. In the case of a partnership, the minority, woman, African American, disabled individual or Veteran owner must own 51% of each class of partnership interest. Such ownership must be reflected in the firm’s partnership agreement.
- C. In the case of a limited liability corporation, the minority, woman, African American, disabled individual or Veteran owner must own 51% of each class of member interest.

All securities that constitute ownership of a firm shall be held directly by the small, minority, woman, African American, disabled individual or Veteran. The SCTRCA may consider all the factors identified in Section 3.04 in determining the ownership of a firm. However, a contribution of capital alone will not be regarded as failing to be real or substantial, and a firm will not be ineligible, solely because:

A small, minority, woman, African American, disabled individual or Veteran acquired his or her ownership interest as the result of a gift, or a transfer without adequate consideration.

However, the small, minority, woman, African American, disabled individual or Veteran owner must demonstrate operational control as well as technical and managerial expertise.

Required documentation regarding ownership includes the following:

- Résumé of Owner(s) (applicable to all business structures)
- Assumed Name Certificate (Doing Business As – DBA) (applicable to all business structures)
- Franchise Agreement (as applicable)

Sole Proprietorship	Assumed Name Certificate
Limited Liability Corporation	Certificate of Formation/Operating Agreement
Partnership, LTD, LLP	Certificate of Formation/Assumed Name Certificate/Partnership/Operating Agreement
Corporation	Certificate of Formation/Organization
	Articles of Incorporation
	By-Laws
	Minutes of first organizational and last annual meeting
	Minutes of all meetings showing ownership changes
	Stock Certificates Issued/Stock Ledger

It is the ultimate responsibility of the small, minority, woman, African American, disabled individual or Veteran-owned business owner(s) to notify the SCTRCA if a change of ownership, control or management occurs. De-certification and revocation is automatic if a certified small, minority, woman, African American, disabled individual or Veteran-owned business has a change in ownership, control or management and does not inform the Agency within 30 days of said change.

### **3.05 Rules that Govern Determinations of Independence**

An independent business is one in which the small, minority, woman, African American, disabled individual or Veteran does not depend on its relationship with another firm or firms for the potential success of the firm. The Agency will consider relationships with non-disabled individual, non-Veteran, non-minority or women firms and individual(s), employee contracts, prime contractors and normal industry practices.

The Agency reviews the relationship between the Franchiser/Licenser and Franchisee/Licensee and that there is no affiliation between the two, to identify whether independence issues exist.

Forms of appropriate documentation regarding independence are as follows:

1. Résumé of Owner(s) and Key Employees;
2. List of Equipment;
3. Lease agreements: rental or equipment; or
4. Copy of invoice(s)/purchase order(s).

### **3.06 Rules that Govern Determinations of Management**

A small, minority, woman, African American, disabled individual or Veteran owner(s) must not be subject to any informal or formal restriction(s) which limits the effectiveness or normal discretion of the small, minority, woman, African American, disabled individual or Veteran owner(s).

Form of appropriate documentation regarding management—Resume of Owner(s).

### **3.07 Rules that Govern Determinations of Position of Authority and Control**

The small, minority, woman, African American, disabled individual or Veteran owner(s) must possess the authority to direct or cause the direction of the management and policies of the firm and to make day-to-day decisions on management, policy and operations. They must hold the highest position of control in the firm.

Non-minorities, non-disabled individual, non-Veteran or males may be involved in the minority, woman, African American, disabled individual or Veteran-owned firm as owners, managers, employees, stockholders, directors and/or officers; however, they must not possess the power to control the firm or be disproportionately responsible for the operation of the firm.

The small, minority, woman, African American, disabled individual or Veteran owner(s) must retain the authority to hire and fire person(s) in management positions. The small, minority, woman, African American, disabled individual or Veteran owner's role in the overall affairs of the firm must be such that the agency can reasonably conclude that the owner actually exercises control over the firm's management, policies, and operations.

The small, minority, woman, African American, disabled individual or Veteran owner(s) may have one or more of their family members involved in the firm who are not small, minority, woman, African American, disabled individual or Veteran, who participate in the firm as a manager, employee, owner, or in another capacity. The Agency must be able to distinguish that the small, minority, woman, African American, disabled individual or Veteran owner(s) control the firm and have proof concerning their control even if the other family member contributes significantly in the firm's activities.

The SCTRCA has also adopted the same standard of review as 49 CFR 26.71 (2008), where a firm was formerly owned and/or controlled by non-minorities, non-disabled individual, non-Veteran or males, whether or not an immediate family member, ownership and/or control were transferred to a minority, disabled individual, Veteran, African American or female individual, and the non-minorities, non-disabled individual, non-Veteran or males remains involved with the firm in any capacity, the minority, woman, African American, disabled individual or Veteran now owning the firm must demonstrate to the Agency, by clear and convincing evidence, that:

The transfer of ownership and/or control to the minority, woman, African American, disabled individual or Veteran(s) was made for reasons other than obtaining certification as a minority, woman, African American, disabled individual or Veteran business enterprise; and the minority, woman, African American, disabled individual or Veteran actually controls the management, policy, and operations of the firm, notwithstanding the continuing participation of non-minorities, non-disabled individual, non-Veteran or males who formerly owned and/or controlled the firm.

In order to be viewed as controlling a firm, a small, minority, woman, African American, disabled individual or Veteran owner cannot engage in outside employment or other business interests that conflict with the management of the firm; the employment shall not prevent the individual from devoting sufficient time and attention to the affairs of the firm to control its activities. *For example, absentee ownership of a business and part-time work in a full-time firm are not viewed as constituting control. However, an individual could be viewed as controlling a part-time business that operates only on evenings and/or weekends, if the individual controls it all the time it is operating.*

With respect to Partnerships, the Agency must identify any written authority for a non-disabled individual, non-minority, non-Veteran or male to contractually bind and subject the firm to legal liability.

The Agency can only grant certification to firms for specific types of work in which the small, minority, woman, African American, disabled individual or Veteran(s) demonstrate the ability to control.

Forms of appropriate documentation regarding position of authority and control are as follows:

Résumé of Owner(s) and Key Employees

**Applicable depending on company structure**

Articles of Incorporation

By-Laws

Regulations or Operating Agreement

Partnership Agreement

Franchise Agreement

Resolution for purchase of equipment or to execute contracts

It is the ultimate responsibility of the small, minority, woman, African American, disabled individual or Veteran-owned business owner(s) to notify the SCTRCA if a change of ownership, control or management occurs. De-certification and revocation is automatic if a certified small, minority, woman, African American, disabled individual or Veteran-owned business has a change in ownership, control or management and does not inform the Agency within 30 days of said change.

### **3.08 Rules that Govern Determinations of Expertise and Licensing**

The small, minority, woman, African American, disabled individual or Veteran owner(s) must display overall understanding of, and managerial/technical competence and or experience directly related to, the primary type of business in which the firm is engaged and for which is requesting certification. The small, minority, woman, African American, disabled individual or Veteran owner(s) must be able to comfortably scrutinize and evaluate information given by any officer/subordinate to make independent decisions for the firm.

If the local or state law requires that a business enterprise be licensed in order to perform a certain type of work (i.e., legal, medical, engineering, CPA, etc.), then the small, minority, woman, African American, disabled individual or Veteran owner must possess themselves a license or employ a licensed individual to legally perform the work requested.

The lack of a small, minority, woman, African American, disabled individual or Veteran owner(s) actually possessing the license in their name, is not solely a reason to deny eligibility, but it can be used as a factor in overall review of the applicant's ability to exercise control.

Forms of appropriate documentation regarding Expertise and Licensing are as follows:

Résumé of Owner(s) and Key Employees

Copies of Licenses or Certification Required by Law

### **3.09 Rules that Govern Determinations of Ownership or Control Change**

It is the ultimate responsibility of the small, minority, woman, African American, disabled individual or Veteran-owned business owner(s) to notify the SCTRCA if a change of ownership occurs. Revocation is automatic if a certified small, minority, woman, African American, disabled individual or Veteran -owned business has a change in ownership, control or management and does not inform the Agency within 30 days of said change.

### **3.10 Reciprocity**

Reciprocity will be granted to applicants certified by the Texas Unified Certification Program (the "TUCP") who provide evidence of current TUCP certification.

### **3.11 Rules Governing Certification**

A. Applicants residing within the jurisdiction of the SCTRCA may streamline and make more efficient the certification process of their application by providing evidence of their current certification issued by the following certification entities:

- Southwest Minority Supplier Development Council;
- Texas Comptroller of Public Accounts; Historically Underutilized Business;
- Small Business Administration Section 8(a); and
- Women's Business Enterprise Alliance.

B. Applicants residing outside of the SCTRCA jurisdiction are strongly encouraged to seek certification in their residence or through the TUCP. TUCP certifying agencies are:

- Texas Department of Transportation;
- City of Houston;
- City of Austin;
- Corpus Christi Regional Transit Authority;
- North Central Texas Regional Certification Agency.

The SCTRCA will process applications submitted by Applicants residing outside the SCTRCA jurisdiction and fees may be charged to the Applicant for the SCTRCA's certification services.

The SCTRCA will charge fees for any and all site visits made during the certification process regardless of whether Applicant becomes certified, and during any and all certification reviews. The SCTRCA is a non-profit agency, therefore, extraordinary expenses for providing certification services beyond its jurisdiction must be recaptured. Charges will be incurred at the expense of the Applicant for actual costs incurred by the SCTRCA. Such charges include but are not limited to mileage, travel, lodging and per diem.

## **4.0 Certification Procedures**

This process is for new applications. For recertification procedures, see Section 4.03.

### **4.01. The Certification Process**

- A. A business seeking certification as a small, minority, woman, African American, disabled individual or Veteran-owned business must submit a completed application to the SCTRCA.
- B. The small, minority, woman, African American, disabled individual or Veteran - owned applicant(s) must provide the requisite materials and information necessary to demonstrate that the firm is an independent business. An independent business is one the viability of which does not depend on its relationship with another firm or firms.
- C. The following documentation is required as applicable to the certifications applied for based upon the Applicant's business structure:
  1. Completed Application for Certification;
  2. Proof of Ethnicity/Citizenship (see Rules that govern group membership determinations);
  3. Assumed Name Document (Doing Business As – DBA) (as applicable);
  4. Any applicable licenses or certificates, as required by law;
  5. Résumé (s) of owner(s) and key employee(s);
  6. Documentation from medical Doctor or government agency verifying disability;
  7. Document DD-214 from the Department of Defense verifying military service;
  8. Corporate Documents (See the table below).

Sole Proprietorship	Assumed Name Certificate
Limited Liability Corporation	Certificate of Formation/Operating Agreement
Franchise	Franchise Agreement
Partnership, LTD, LLP	Certificate of Formation/Assumed Name Certificate/Partnership/Operating Agreement
Corporation	Certificate of Formation/Organization
	Articles of Incorporation
	By-Laws
	Minutes of first organizational and last annual meeting
	Minutes of all meetings showing ownership changes
	Stock Certificates Issued/Stock Ledger

- D. SCTRCA will certify the applicant as a small, minority, woman, African American, disabled individual or Veteran-owned business or provide the applicant with written justification of its denial of certification within 60 days after the date SCTRCA receives a satisfactorily completed application and supporting documentation from the applicant.
- E. SCTRCA's staff will review and evaluate applications, and may reject an application based on one or more of the following reasons:
  - 1. the application is incomplete;
  - 2. the applicant does not meet the requirements of the definition of a small, minority, woman, African American, disabled individual or Veteran individual business enterprise;
  - 3. the application contains information that cannot be verified;
  - 4. the applicant does not provide additional information in connection with the certification review as requested by SCTRCA.

#### **4.02. Procedures for Certification Denials and Appeals**

The procedures upon denial of certification for reconsideration on appeal are also applicable to denials of recertification. The procedures used for each are the same.

- A. The SCTRCA shall send by certified, registered mail, return receipt requested, by Federal Express or a comparable bona fide overnight courier, for delivery on the next business day with all postage and/or charges paid by sender, with signature required, a letter of denial of certification detailing the areas of concern regarding the certification or recertification application of the Applicant.
- B. The applicant may protest the decision in writing within 15 business days of the date the denial letter is received. The applicant may also include additional documentation to be reviewed by the SCTRCA Certification Specialist and Executive Director.
- C. The SCTRCA Executive Director shall hold an informal hearing to include the Certification Specialist, Executive Director and Vendor to reconsider the decision within 15 business days of receipt of the protest.
- D. The SCTRCA Executive Director's final decision and the basis therefore shall be communicated to the Applicant within 10 business days of the hearing or on a date set by agreement due to extraordinary circumstances. Within 10 business days of receiving the SCTRCA Executive Director's written notice of final decision, the Applicant may file with the SCTRCA Executive Director a protest requesting in writing an audience before the SCTRCA Board of Directors' Appeal Advisory Committee (referred herein after as "AAC") to appeal the Executive Director's decision.

- E. A member of the AAC or its designated representative will contact the Applicant by telephone and/or e-mail to schedule a date, time and location to hear the protest. The decision of the AAC to either certify or to uphold the denial shall be communicated to the SCTRCA Executive Director within 10 business days of the hearing or on a date set by agreement due to extraordinary circumstances and shall be final.
- F. The SCTRCA will notify the Applicant in writing of the AAC's decision within two (2) business days of receiving the AAC decision.
- G. An Applicant denied certification or recertification may not apply for certification for six (6) months from the effective date of final decision.

**4.03. Recertification**

- A. The small, minority, woman, African American, disabled individual and Veteran-owned certification is valid for a two-year period beginning on the date SCTRCA certifies the Applicant.

In order to avoid certification expiration of the two-year period, a business that desires to maintain its certification by being recertified must:

- 1. Return a completed renewal affidavit as provided by SCTRCA within 60 days prior to expiration; and
- 2. Comply with the requirements specified in these standards and procedures as to certification.

**B. Recertification Closing Procedures**

Should the Applicant fail to provide the renewal affidavit, should the form received be incomplete or without the requested additional documentation, or should there be outstanding requests for additional information to complete the recertification process, the Applicant will be subjected to Recertification Closing Procedures.

- 1. Renewal affidavit not submitted by Applicant
  - a. SCTRCA staff shall send one lapse letter by email and fax after the 60 day renewal notice has expired informing the applicant of the potential close of the applicant's file.
  - b. Ten (10) business days after notifying the applicant by email and fax of a potential close, the SCTRCA staff shall provide a reminder call to the applicant within the same 10 business day period.
  - c. SCTRCA staff shall notify applicant in writing of file closure and removal of applicant from the certified vendor database on the 15<sup>th</sup> day of the following month of which the certification has expired.

The close notification or Close Letter shall clearly indicate the applicant's inability to apply for certification for six (6) months from the date of the Close Letter. Firms seeking certification shall cooperate fully with the requests of the SCTRCA for information relevant to the certification process. Failure or refusal to provide such required or requested information is grounds for a denial or removal of certification.

2. Renewal affidavit received from applicant incomplete
  - a. Walk in applications that are incomplete will not be accepted.
  - b. SCTRCA staff will contact vendor by phone with an initial request for additional information (RFAI) and will follow up by fax and/or email. A response to the initial request is due within 10 days of receipt of the notification.
  - c. SCTRCA staff will send a second and third RFAI by fax, and email or phone as a last resort, giving the applicant 10 additional days per each request to submit additional information.
  - d. Executive Director will send a final Close Letter informing the applicant that their request for recertification has been closed and they are not eligible to apply for certification for six (6) months from the date of the Close Letter. Firms seeking certification shall cooperate fully with the requests of the SCTRCA for information relevant to the certification process. Failure or refusal to provide such information is grounds for a denial or removal of certification.

#### **4.04 Revocation**

SCTRCA shall revoke the certification of a business if it is determined that a business does not meet the definition of a small, minority, woman, African American, disabled individual or Veteran-owned business or that the business fails to provide information requested in connection with a certification review conducted by SCTRCA. Prior to taking final action, SCTRCA staff shall provide the firm with written notice of the proposed revocation. SCTRCA staff shall then prepare a recommendation regarding the proposed revocation and submit the recommendation to the Executive Director for a determination. An appeal, if requested, will be forwarded to the AAC for a final determination.

#### **4.05 Certification Reviews**

SCTRCA may conduct random certification reviews of applicants and certified businesses by auditing them to verify that the information submitted by a business is accurate, and that the business remains eligible for certification status. Certification is subject to revocation if it is determined that a business does not qualify as a SCTRCA small, minority, woman, African American, disabled individual or Veteran-owned business as identified in these policies and

procedures. Certification reviews may be conducted for any business for which SCTRCA determines a certification review is warranted.

A Board Member may request the audit of an applicant's/vendor's file, by submitting a formal written notice to the Executive Director stating the reasons (i.e. eligibility, open records request, challenge) for the requested audit detailed.

Businesses subject to certification reviews must provide SCTRCA with any information requested to verify the certification eligibility of the business. Failure to provide requested information is grounds for the revocation of the certification.

During the Certification Review, the SCTRCA may conduct site visits as part of the certification process to verify the information submitted by a business is accurate, and the business continues to meet all S/M/W/AA/DI/VBE eligibility requirements during the certification or renewal process. Certification is subject to revocation if it is determined that a business does not qualify as a S/M/W/AA/DI/VBE. Instances which may lead to a site visit during determination of eligibility include but are not limited to:

1. Misrepresentation or falsification of application or renewal affidavit and/or supporting documents;
2. Non-Compliance with the SMWBE Policies & Procedures resulting in a denial of certification or renewal;
3. Certification review request by the SCTRCA or Board of Directors;
4. Challenge of certification by an outside party; and
5. Revocation of certification.

The SCTRCA must interview the principal owner(s) /officer(s) of the firm. The SCTRCA has authority to perform a site visit to job sites if there are such sites on which the firm is working at the time of the eligibility investigation.

#### **4.06 Site Visits**

Firms may be selected for random site visits by the SCTRCA. Firms will be randomly selected by the Executive Director and may be conducted at any time as chosen. Prior notification is not required.

The SCTRCA will charge Applicants residing outside of the SCTRCA jurisdiction fees for any and all site visits made during the certification process regardless of whether Applicant becomes certified, and during any and all certification reviews. The SCTRCA is a non-profit agency, therefore, extraordinary expenses for providing certification services beyond its jurisdiction must be recaptured. Charges will be incurred at the expense of the Applicant for actual costs incurred by the SCTRCA. Such charges include but are not limited to mileage, travel, lodging and per diem.