

CITY OF LOS ANGELES
RULES AND REGULATIONS
SMALL, LOCAL BUSINESS CERTIFICATION

**Bureau of Contract Administration
Office of Contract Compliance
Centralized Certification Administration**

**Room 300
1149 South Broadway Street
Los Angeles, CA 90015
Telephone: (213) 847-2684
Fax: (213) 847-2777
<http://bca.lacity.org>**

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Effective August 2001

I. PURPOSE AND APPLICABILITY

These rules and regulations shall follow City of Los Angeles (City) Ordinance No. 174048 and Article 4, Sections 10.25 to 10.30 of the Los Angeles Administrative Code. These rules and regulations shall be used by the Bureau of Contract Administration (BCA), Office of Contract Compliance (OCC), Centralized Certification Administration (CCA) in determining the eligibility of firms for certification as "Small, Local Business" ("SLBs") and participation in City procurement contracting purposes. These rules and regulations do not guarantee contract participation.

II. EFFECTIVE DATE

These rules and regulations shall be effective as of August 2001 and shall be applicable to all procurement contracts under \$100,000, advertised and/or otherwise solicited after that date to which SLB requirements apply.

III. POLICY

- A. It is the policy of the City to prevent discrimination of eligible small, local business owners in the award of or participation in City contracts as prime contractors.
- B. A firm's compliance with the Eligibility Standards set forth herein and its initial certification by the City does not, however, guarantee continued certification. Rather, the BCA/OCC/CCA may conduct post-certification monitoring of a firm to determine its continued eligibility for certification. The BCA/OCC/CCA may impose appropriate penalties, including but not limited to revocation of a prior certification approval.
- C. All actions of the City with respect to Certification, Denial of Certification, and Closure of any application shall be made by the BCA/OCC/CCA.
- D. The absence of Certification shall in no way affect an applicant firm's right to bid or submit a proposal for any City contract.

IV. DEFINITIONS

- A. "Applicant" means any person or firm who submits a Certification Application as a SLB, including all associated documents and information to the BCA/OCC/CCA.
- B. "Certified" or "Certification" means the granting of SLB status to a firm by the City's ' BCA/OCC/CCA.
- C. "Small, Local Business" ("SLB") means a certified business with annual receipts, including its affiliates if any, of less than \$3 million, and its principal office located within Los Angeles County.
- D. "Principal place of business" means location of the head office of a business where the books and records are kept, where management works, and where the majority of activities relative to the business are performed and/or transacted.

A virtual office or an arrangement for the right to use an office space on an "as needed" basis, where no physical work space is exclusively reserved for the firm at all times; or a work space provided in exchange for services as opposed to monetary rent, do not meet this definition.

- E. "Annual receipts" means the gross income of a concern and its domestic and foreign affiliates from sales of products and services, interest, rents, fees, commissions, and/or from whatever source derived, as entered on its regular books of account for its most recently completed fiscal year (whether on a cash, accrual, completed contracts, percentage or completion, or other acceptable accounting basis) and, in the case of a concern subject to U.S. Federal income taxation, reported or to be reported to the U.S. Treasury Department, Internal Revenue Service, for Federal income tax purposes. If a concern which has been in business more than 12 months changes its accounting period (fiscal year), its annual receipts will be determined from its most recently completed 12-month period in business.

If a concern has acquired an affiliate during the applicable accounting period, it is necessary in computing the applicant's annual receipts, to include the affiliate's receipts during the entire applicable accounting period, rather than only its receipts during the period in which it has been an affiliate. The receipts of a former affiliate are to be included if such concern was an affiliate during a portion of the applicable accounting period.

- F. "Affiliate" means concerns are affiliates of each other when either directly or indirectly one concern controls or has the power to control the other or a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration shall be given to all appropriate factors, including common ownership, common management, and contractual relationships: Provided, however, that restraint imposed on a franchisee by its franchise agreement shall not be considered in determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, if the franchisee has the right to profit from his effort, commensurate with ownership, and bears the risk of loss or failure.
- G. "Familially related" means relationships between the following family members; Husband, wife, child, stepchild, mother, father, grandparent, brother, sister, grandchild, stepbrother, stepsister, stepmother, stepfather, mother-in-law, father-in-law, brother-in-law, sister-in-law, daughter-in-law, and if related by blood uncle, aunt, niece, nephew.
- H. "10% Preference" means the preference granted to any supplier or contractor who qualifies as a SLB, and is a responsible and responsive bidder or proposer.

The 10% preference is calculated by taking 10% of the amount proposed by a non-certified firm, subtract that from the bid amount proposed by a SLB certified firm, and if after the 10% deduction is made, and the amount proposed by the SLB certified firm is equal or less than the amount proposed by the non-certified firm, the contract is awarded to the SLB certified firm. This calculation is done only to determine which firm will receive the award. The amount of the contract with the SLB is not affected by the 10% preference.

- I. "Non-manufacturing" – for the purpose of purchase of materials, supplies, and equipment made by the Purchasing Agent or its successor in interest means, when concern does not manufacture, produce, or add value to the products required to be furnished by such purchase.
- J. "Contractor" means any person or business entity that shall enter into a contract with the City.
- K. "Supplier" means a firm selling and maintaining an inventory of a product.
- L. "Distributor" means a firm supplying a product with written confirmation of its authorized distributor relationship with a manufacturer.
- M. "Broker" means a firm selling a product, carrying no inventory, but must prove that it assumes financial responsibility for the product before it is delivered.

- N. "Awarding Authority" means the City department which lets the contract out, determines the lowest, responsive, responsible bidder, and awards the contract.

V. ELIGIBILITY STANDARDS

A. Evaluation of Applicants

The Eligibility Standards herein shall be used to determine Applicant's eligibility for Certification as a SLB Applicant's eligibility shall be thoroughly investigated and reviewed by BCA/OCC/CCA and will consider all of the facts in the record, taken as a whole.

The investigative technique that shall be employed by the BCA/OCC/CCA in determining the eligibility of Applicant firms will be primarily documentation review. The use of additional techniques such as site visits and/or interviews of principal owners and management officials shall be made in appropriate cases to verify representations made by an Applicant or other documentation submitted. Interviews shall be conducted with individuals having knowledge of the firm's ownership, affiliation, gross receipts, principal office location, and information obtained from any other source such as the applicant firm's webpage. False, erroneous or misleading statements by any Applicant regarding certification-related irregularities, or non-compliance with information requests by the BCA/OCC/CCA shall be deemed grounds for SLB certification denial and/or closure.

B. Eligibility Evaluation Criteria

- (1) Annual Receipts. An eligible Applicant for SLB Certification must be a business entity with annual gross receipts, including its affiliates if any, of less than \$3 million from the previous fiscal year. Annual gross receipts must be reflected in the relevant documents such as the firm's Federal Income Tax Returns and/or Financial Statements.
- (2) Location. An eligible Applicant for SLB Certification must have its principal place of business located within the County of Los Angeles. A virtual office or an executive suite located within the County of Los Angeles will not be considered as a principal place of business (see definition of "principal place of business").
- (3) Failure to Cooperate. The City requires all firms seeking SLB Certification to cooperate fully with requests from the BCA/OCC/CCA for information relevant to the Certification process. Failure or refusal to provide such information is a ground for Denial and/or Closure of Certification application.

VI. APPLICATION PROCEDURES FOR CERTIFICATION

- A. All prospective applicants requesting initial Certification as a SLB and shall file with the BCA/OCC/CCA, a completed City Certification Application for status as a SLB (see Attachment A). PDF version of the SLB Certification Application form is available at <http://bca.lacity.org>.
- B. The SLB certification is valid for two (2) years. Approximately one (1) month prior to the end of the second year, BCA/OCC/CCA will send a renewal notice along with a Biennial Affidavit of Eligibility form (Attachment B) to the applicant to complete and send back to BCA/OCC/CCA.
- C. All Certification Applications and Biennial Affidavits of Eligibility shall be executed under oath by the owner or a duly authorized officer of the applicant firm.
- D. As a condition of Certification, the BCA/OCC/CCA shall be authorized to request from any applicant firm such additional information as may be deemed relevant to any applicant firm's status as an SLB.
- E. During any period for which any SLB Certification shall be effective, all books and records in applicant firm or its affiliate's possession, which may prove or disprove SLB eligibility, shall be open for inspection and examination by the BCA/OCC/CCA.

- F. Certification by any other entities, other than the SLB certification issued by BCA/OCC/CCA may not be accepted for purposes of proof of SLB status on City contracts.
- G. Upon receipt, Application for SLB Certification shall be stamped with the date of receipt. Applications are prioritized according to the date they are received; no exceptions. Applications must be received by the BCA/OCC/CCA five (5) calendar days prior to the bid proposal deadline and approved prior to the award date in order to be considered for SLB status for the project.
- H. Application will be reviewed by the BCA/OCC/CCA. This review will include an audit of required supporting documents for omissions and deficiencies. The review may include an on-site visit with the applicant, and review of specific additional information in support of the Application as requested.
- I. Any request to an Applicant for additional information shall be in writing and specify that the Applicant must respond to the request within thirty (30) calendar days, with a note to the applicant stating that the application will be closed if the Applicant fails to respond to the request. If the Applicant is unable to respond to the request for additional information within the time specified, the application will be closed.
- J. Following the City's receipt of a completed Application for Certification or an Affidavit of Eligibility, and subsequent review by a Certification analyst, the BCA/OCC/CCA shall issue a written determination granting Certification or Denial of such Application or Eligibility.
- K. If the BCA/OCC/CCA determines that an Applicant does not meet the Eligibility Standards for Certification as a SLB, a Denial Letter shall be issued to the Applicant. The Denial letter shall specifically inform the Applicant of the material facts and conclusions upon which the decision to issue the Denial of Certification was based. The Denial letter shall also inform the Applicant of the procedures for appealing such decision.
- L. The Applicant may appeal the decision by responding to the Denial within thirty (30) calendar days from the date of the Denial Letter. The appeal letter must be addressed to the BCA/OCC/CCA Certification Manager. All Applicant appeals shall contain sufficient facts to clearly establish that the material facts and/or conclusions upon which the Denial Letter was based were erroneous.
- M. Upon review of an Applicant's appeal to a Denial letter, the BCA/OCC/CCA Certification Manager shall make a determination as to whether or not the factors cited in the Denial letter have been sufficiently refuted. The BCA/OCC/CCA Certification Manager's decisions will be final and shall be communicated in writing within ninety (90) days of the receipt of the applicant's appeal to the Denial letter.
- N. Changes in a SLB's ownership, affiliation, location, gross receipts and other information which may impact the Applicant's eligibility for certification must be communicated in writing to BCA/OCC/CCA within thirty (30) calendar days of such change. Failure to communicate such changes as required herein shall constitute grounds for Denial, and/or Closure of the SLB application.
- O. If the BCA/OCC/CCA has reason to believe that the information contained on an Application for Certification is inaccurate, incomplete, or outdated, the BCA/OCC/CCA may request the submission of a new Application from any SLB applicant. Non-compliance with such request shall constitute grounds for denial of certification.
- P. Following the initial Denial of Certification, the name of such SLB shall be removed from the master directory of certified firms maintained by the BCA/OCC/CCA.

VII. CLOSURE PROCEDURES

- A. Upon receipt of information believed by the BCA/OCC/CCA to be reliable and which indicate that the applicant no longer qualifies for SLB Certification, (i.e., Gross Receipts exceeds \$3 million for the previous fiscal year, principal

office moved outside of Los Angeles County), BCA/OCC/CCA shall issue a Closure letter to the Applicant. The Closure Letter shall inform the applicant of all material facts upon which the decision was based.

- B. Where, after duly notified by BCA/OCC/CCA, the applicant fails to respond to Request for Additional Information, a renewal notification by completing a Biennial Affidavit of Eligibility, Appeal on a Certification Denial, the BCA/OCC/CCA shall issue a Closure letter to the Applicant. The Closure Letter shall inform the applicant of all material facts upon which the decision was based. In the event that the firm is no longer in business and/or could no longer be contacted either by phone, e-mail or regular mail, the Certification application will be automatically closed by BCA/CCA/OCC.
- C. Following the Closure of any SLB file, the name of such SLB shall be removed from the master directory of certified SLBs maintained by the BCA/OCC/CCA.

VIII. SLB DIRECTORY

The BCA/OCC/CCA shall maintain a Directory of Certified Firms. The Directory shall identify all certified SLBs by name, contact information, principal location and/or address, Certification status (i.e., SLB), work categories, and date of Certification. The Directory shall be accessible from the BCA's website at <http://bca.lacity.org>, and shall be available to all interested persons.

IX. NON-DISCLOSURE OF CERTIFICATION INFORMATION.

Unless otherwise mandated by law, and/or approved in writing by the applicant, no City employee acquiring knowledge or vested with any responsibilities with respect to SLB Certifications shall disclose to any person, other than the BCA/OCC/CCA, or other persons duly authorized to receive SLB Certification information, the content of any SLB Application or document filed in support thereof. Nor shall any employee disclose to, or discuss with, any unauthorized person, information regarding deliberations by the BCA/OCC/CCA in connection with Certification or Denial of Certification of any Applicant. Non-compliance with this section shall subject the employee to applicable City disciplinary sanctions up to and including termination.

X. DEPOSITORY OF RECORDS.

Records of all Applications for Certification as SLB shall be maintained within the BCA/OCC/CCA for a reasonable period of time. Records of all Applications for Certification as SLB that are inactive for six (6) months will be archived. Destruction of archived, inactive records will follow the City's policy on Records Retention and Destruction.

XI. ATTACHMENTS

City of Los Angeles Small & Local Business Program

Thank you for applying for the Small & Local Business (SLB) Program with the City of Los Angeles.

Qualifications to obtain SLB status are listed below:

1. Your principal office must be located within the County of Los Angeles.
2. Your firm must have a City of Los Angeles Business Tax Registration Certificate. For information on obtaining a City of Los Angeles Business Tax Registration Certificate, please call the Office of Finance, Tax and Permits Division at (213) 626-9271.
3. Gross receipts for your business (including affiliates) must total less than \$3 million for the previous fiscal year.

Companies certified as a Small & Local Business with the City of Los Angeles are given a preference applied to bid contracts of \$100,000 or less. A 10% preference (discount) is given to the bids of SLB certified companies. The preference is determined by taking 10% of the lowest bid that is proposed by a non-certified SLB company, and subtracting that amount from the bid of the SLB certified company. If after the preference the SLB's bid is less than or equal to the lowest non-certified company's bid, the SLB will be awarded the contract.

In order to be given the bid preference as a certified SLB, your SLB application must be submitted to the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance, Centralized Certification Section no later than five (5) calendar days prior to the bid or proposal deadline and approved prior to the award date.

The Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance, Centralized Certification Section is located at:

1149 S. Broadway, Suite 300
Los Angeles, CA 90015

Certification as a Small & Local Business continues to be valid for two calendar years from the date of approval. For questions concerning the Small & Local Business Program, contact the Office of Contract Compliance, Centralized Certification Section at (213) 847-2641.



**SMALL, LOCAL BUSINESS (SLB)
CERTIFICATION PROGRAM**

BIENNIAL AFFIDAVIT OF ELIGIBILITY

Name of Firm _____ SLB Number _____

Business Address _____

City, State, Zip Code _____

Telephone Number _____ Fax Number _____ E-mail Address _____

I declare that _____ continues to meet the Small, Local Business (SLB) Certification Program eligibility requirements and that I can provide documentation to support this declaration if necessary.

Please check **YES** or **NO** to the following statements:

- | | YES | NO |
|--|------------|-----------|
| 1. The firm's principal place of business is located within Los Angeles County. | [] | [] |
| 2. The firm's annual gross receipts including its affiliates, if any, did NOT exceed \$3 million for the previous fiscal year. | [] | [] |

Certified SLB firms are entitled to participate in City-funded contracts that are \$100,000 or less and are given a 10% preference to their bid amounts. To remain certified and be given the bid preference, firms must continue to meet the City Ordinance 174048 certification criteria including but not limited to the location of the principal place of business and annual gross receipts including affiliates, if any. This Affidavit is sent to SLB certified firms every two years to determine continuous eligibility. We, however, continue to reserve the right to re-evaluate your certification eligibility anytime it is deemed necessary.

I declare under penalty of perjury that the foregoing is true and correct. ¹

SIGNATURE _____ Title _____

Printed Name _____ Date _____

Upon receipt of your completed Affidavit, your firm's SLB certification will be renewed. You can verify your certification status by checking your company profile on our website at <http://bca.lacity.org> and follow the links to Certification Listings to SLB Directory.

¹ **Knowingly and willfully providing false information is a violation of the City Ordinance 174048 and could subject you to fines, contract termination or debarment from transacting business with the City. Business owners claiming eligibility to the SLB Certification Program criteria must sign this affidavit.**