

## Title 39 - DIVERSITY AND INCLUSION CODE

### Chapter 3901 – DEFINITIONS

#### 3901.01 - Definition of terms.

For the purpose of Title 39, the following words, phrases and terms shall be defined as set forth below:

~~(A)~~ "Columbus Metropolitan Service Area" shall mean the counties of Franklin, Delaware, Fairfield, Fayette, Licking, Madison, Pickaway and Union.

~~(B)~~ (A) "Commercially useful function" shall mean the performance of real and actual services in the discharge of any contractual endeavor. Services are real and actual if such services would be provided in the normal course of conducting business or trade activities. The contractor must perform a distinct element of work which the business has the skill and expertise as well as the responsibility of actually performing, managing and supervising.

~~(C)~~ (B) "Construction" shall have the same meaning as set forth in Chapter 329.

~~(D)~~ (C) "Contract." shall have the same meaning as set forth in Chapter 329.

~~(E)~~ (D) "Contracting agency" shall have the same meaning as set forth in Chapter 329.

~~(F)~~ (E) "Contractor" shall have the same meaning as set forth in Chapter 329.

~~(G)~~ (F) "Controlled" for purposes of determining whether a business is minority-owned or women-owned means the owner(s) shall:

- 1) Possess and exercise the legal authority and power to manage business assets, goodwill and daily operations of the business; and
- 2) Actively and continuously exercise such managerial authority and power in determining the policies and directing the operations of the business.

~~(H)~~ (G) "Diversity and Inclusion Code" means Title 39 of the Columbus City Codes.

(H) "Emerging Business Enterprise" shall mean a business enterprise that is an independent and continuing for profit operation located outside of the geographic boundaries of Franklin County, Ohio and is independently and directly owned, operated and controlled by one or more eligible minority group members or a certified women business enterprise owner(s) as defined by this code.

(I) "Employee Stock Ownership Plan (ESOP)" has the same meaning as that term is defined under 26 U.S.C. § 4975(e)(7).

(J) "Minority Group Members" shall mean Black or African Americans, Asian Americans, Hispanic Americans and Native Americans, that are ~~citizens of the United States~~ eligible to do business or perform work in the state of Ohio.

- 1) Black or African American means all persons having origins in any of the black racial groups of Africa.
- 2) Native American means all persons who maintain culture and have origins in a federally recognized Indian tribe as listed in the current "Federal Register Notice of Indian Entities Recognized by and Eligible to Receive Services" from the U.S. Bureau of Indian Affairs.
- 3) Asian American means all persons having origins in any of the original people of the Far East, including China, Japan and Southeast Asia.
- 4) Hispanic American means all persons of Spanish or Portuguese culture with origins in Mexico, South or Central America or the Caribbean Islands, regardless of race.

(K) "Minority-Owned Business Enterprise (MBE)" shall mean a business which is not a subsidiary of another business and is an independent and continuing for profit operation, performing a commercially useful function, and is independently and directly owned, operated, and controlled by one or more eligible minority group members as defined by this code.

(L) "Owned" shall mean:

- 1) At least fifty-one percent (51%) of the business is independently and directly

- owned, operated, and controlled by individuals ~~born or naturalized of the United States~~ eligible to do business or perform work in the state of Ohio;
- 2) The ownership shall be real and continuing, and shall go beyond the mere indicia of ownership of the business reflected in the ownership document; and
  - 3) The owner(s) shall enjoy the customary incidence of ownership and shall share in the risks and profits commensurate with their ownership interest, as demonstrated by an examination of the substance, rather than the form of ownership arrangements.
  - 4) Ownership may not be through another business entity or trust (including through an Employee Stock Ownership Plan); and
  - 5) Notwithstanding section (L)(4) of this division, ownership by a trust, such as a living trust, may be treated as the functional equivalent of ownership by a Minority Group Member or woman if the trust is revocable and the owner is the grantor, the trustee, and the sole current beneficiary of the trust.

(M) "Physical presence" means business operations that are conducted out of a building by at least one (1) full-time employee or full-time employee equivalent.

~~(M) "Small Local Business Enterprise (SLBE)" means an independently owned, operated, and controlled for-profit business concern headquartered and domiciled in the City of Columbus that has been certified by the Office of Diversity and Inclusion as having met the SLBE eligibility requirements as provided for in the Diversity and Inclusion Code.~~

(N) "Small Regional Business Enterprise (SRBE)" means an independently and directly owned, operated, and controlled for-profit business concern that has been certified by the Office of Diversity and Inclusion as having met the SRBE eligibility requirements as provided for in the Diversity and Inclusion Code and with a physical presence in one or more of the following counties: Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Pickaway, or Union.

~~(N) (O) "Veteran" shall mean a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.~~

~~(O) (P) "Women-Owned Business Enterprise (WBE)" shall mean a business which is not a subsidiary of another business and is an independent and continuing for profit operation, performing a commercially useful function, and is independently and directly owned, operated, and controlled by one or more women that are citizens of the United States eligible to do business or perform work in the state of Ohio.~~

### **3902.01 - Office of Diversity and Inclusion.**

There is hereby created the Office of Diversity and Inclusion. The Office of Diversity and Inclusion is dedicated to creating and implementing programs, policies and procedures that will deliver and capture value through supplier and workforce diversity. Additionally, the office will assist underserved, under- utilized and economically disadvantaged businesses with gaining greater access to procurement opportunities and resources to build viable and sustainable businesses.

The Office of Diversity and Inclusion may exercise the following duties, responsibilities and authority:

- (A) Administration and enforcement of compliance with the Diversity and Inclusion Code;
- (B) Establishment of written policy and procedures to execute the Diversity and Inclusion Code;
- (C) Development and refinement of workforce policy and procedures;
- (D) Development, refinement and coordination of supplier diversity and procurement activities such as outreach, solicitation for small contracts, bid specification review and prompt payment/contract dispute resolution procedures;
- (E) Development, refinement and coordination of assistance programs such as financing, bonding/insurance and technical assistance;

- (F) Development and coordination of mentor/protégé and on-the-job training demonstration projects;
- (G) Development, refinement, and implementation of MBE/WBE and ~~SLBE~~ SRBE certification procedures and coordination of such procedures with the Purchasing vendor registration system;
- (H) Consideration of price preference and sheltered market solicitation, based upon criteria set forth in the applicable sections of the Diversity and Inclusion Code;
- (I) Investigation of alleged violations of the Diversity and Inclusion Code;
- (J) Analysis and review of programs in accordance with the review and reporting requirements contained in the Diversity and Inclusion Code;
- (K) Analysis, review and recommendation for adjustments to the city's annual participation goals;
- (L) Establish and review of all applicable specific contract participation goals;
- (M) Establishment of committees and advisors to further the goals of the Diversity and Inclusion Code;
- (N) Recommendations to the mayor and city council regarding additional efforts necessary to ensure the effective operation of this office pursuant to periodic review and reporting requirements contained in the Diversity and Inclusion Code.

The Office of Diversity and Inclusion may hire staff or contract with outside firms or organizations to perform these and other duties as necessary to expand the role of the Office.

### **3902.02 - Duties of the Director.**

The Director of the Office of Diversity and Inclusion shall be appointed by the Mayor and shall serve at the pleasure of the Mayor at a salary fixed by ordinance of Council. The Director shall be responsible for the administration and enforcement of the Diversity and Inclusion Code, the policies, rules and regulations issued hereunder, and for other duties pertinent thereto, including:

- (A) Investigating complaints, making inspections, and observing employment conditions related to City contracts;
- (B) Reviewing all submittals required by the Diversity and Inclusion Code and ensuring all contractors who are in compliance with its requirements;
- (C) Certifying qualified business enterprises and monitoring their participation on city contracts to ensure compliance with the Diversity and Inclusion Code;
- (D) Reviewing ordinances authorizing the entry into contracts and certifying the proposed contractor's compliance prior to the ordinance being submitted to council;
- (E) Promulgating and enforcing rules and regulations to carry out the meaning and purpose of the MBE/WBE and ~~SLBE~~ SRBE programs as authorized by this chapter;
- (F) Monitoring the workforce of contractors by desk audits and on-site inspections, as needed, to determine if any contractor is in violation of any applicable law related to contract compliance;
- (G) Receiving and reviewing all rules and regulations issued by the State of Ohio or the federal government relevant to contract compliance, and assuring that the City is conforming to those rules or regulations.

### **3903.02 - Certification of MBE/WBEs.**

- (A) Eligibility Criteria for MBE/WBE Certification. A business enterprise that wishes to make application to the Office of Diversity and Inclusion to be certified as an MBE/WBE shall submit a completed MBE/WBE Certification Form, a signed affidavit, and supporting documentation affirming that the MBE/WBE meets all of the following minimum eligibility criteria:
  - 1) Is a for-profit business ~~concern~~ that is licensed to do business in the state of Ohio performing a commercially useful function that is not a subsidiary of another business and is either:
    - a. For an MBE: at least 51% independently and directly owned, operated, and controlled by ~~a United States citizen~~ an individual who is eligible to do business or perform work in the state of Ohio and who is an African American, Native

- American, Hispanic American, or Asian American;
- b. For an WBE: at least 51% independently and directly owned, operated, and controlled by a United States citizen who is female who is eligible to do business or perform work in the state of Ohio.
- 2) Has a physical presence Is headquartered inside the Franklin County geographic area;
  - 3) Has been established for at least ~~six (6) months~~ one (1) year;
  - 4) Possesses all licenses and permits required by law to perform the scope of work within the classification requested for certification.
- (B) Ineligible businesses. A business enterprise is ineligible for consideration for MBE/WBE Certification if:
- 1) The business enterprise has been placed on the adverse determination list by the Wage Theft Prevention and Enforcement Commission in accordance with Chapter 377 of the Columbus City Code.
  - 2) It has been determined by the Office of Diversity and Inclusion that a representative of the business enterprise previously made a materially deceptive or fraudulent statement or omission or otherwise intentionally misrepresented any fact that may have been considered in making a certification determination during any certification process provided for in the Diversity and Inclusion Code within the prior three years.
  - 3) The business enterprise has been or is currently facing suspension or debarment in accordance with provisions of Chapter 329 of the Columbus City Codes.
- (C) Certification.
- 1) Upon receipt of a submitted MBE/WBE Certification Application, the Office of Diversity and Inclusion will review and evaluate applications based upon the following criteria:
    - a. The applicant meets the MBE/WBE eligibility criteria;
    - b. The application is satisfactorily completed;
    - c. The application contains accurate and complete information of required in making a certification determination during the certification process; or
    - d. The applicant has provided materials or information as requested by the Director.
  - 2) Once it is determined that a business enterprise meets the minimum eligibility requirements and is not otherwise ineligible for certification as an MBE/WBE, the Office of Diversity and Inclusion will determine the scope of the MBE/WBE's certification.
    - a. Certification will be granted for only the specific areas of work in which the MBE/WBE has been found by the Office of Diversity and Inclusion to have the requisite skills, knowledge, and ability to perform in the field of endeavor in which certification is sought, as defined by normal industry practices, including licensure where required.
    - b. Certification for specific areas of work does not mean the MBE/WBE is prequalified to bid on any city contract, including contracts included in the MBE/WBE program. Certification does not constitute a finding that the MBE/WBE meets the requirements that the City may have for any given contract award.
  - 3) Upon receipt of a submitted MBE/WBE Certification Application, the Office of Diversity and Inclusion will review and evaluate applications based upon the following criteria:
    - a. The applicant meets the MBE/WBE eligibility criteria;
    - b. The application is satisfactorily completed;
    - c. The application contains accurate and complete information of required in making a certification determination during the certification process; or
    - d. The applicant has provided materials or information as requested by the Director.
  - 4) The Director will make a final certification determination within 90 days after the date the Office of Diversity and Inclusion receives a satisfactorily completed application from the

applicant. If certification is denied, the Director will notify the applicant in writing and specify the reason(s) for the denial. Unless the applicant is successful in a timely appeal of the denial of certification, the applicant may not reapply for the same type of certification for a period of one year from the date of the notice of denial.

- 5) A business entity that has received a denial of certification from the Office of Diversity and Inclusion shall have a right of appeal in accordance with section 3907.03.
- 6) Certification as an MBE/WBE expires two years from the date of certification. MBE/WBEs have a continuing, affirmative obligation to notify the Office of Diversity and Inclusion of any change in its circumstances affecting its continued eligibility for the MBE/WBE program.

(D) Re-Certification, De-Certification, and Suspension.

1) Re-Certification.

- a. MBE/WBEs seeking re-certification shall submit a completed MBE/WBE Re-certification Form (MBE/WBE-R) to the Office of Diversity and Inclusion no sooner than 60 days prior to the expiration of their MBE/WBE certificate.
- b. Failure of an MBE/WBE to seek re-certification by filing the necessary MBE/WBE-R form with the Office of Diversity and Inclusion within 60 days following the expiration of its certificate shall result in automatic decertification.

2) De-Certification and Suspension.

- a. An MBE/WBE may be De-Certified upon a finding by the Director that the MBE/WBE:
  - i. Ceases to meet the eligibility and/or certification requirements for their MBE/WBE Certificate; or
  - ii. Has provided materially false or misleading information to the city in seeking certification or re-certification; or
  - iii. Has failed to perform a Commercially Useful Function under a contract, or
  - iv. The MBE/WBE allows its MBE/WBE status to be fraudulently used for the benefit of a non-MBE/WBE firm or the owners of a non-MBE/WBE firm so as to provide the non-MBE/WBE firm or firm owners benefits from the Program for which the non-MBE/WBE firm and its owners would not otherwise be entitled; or
  - v. Has exhibited gross negligence, incompetence, financial irresponsibility, or misconduct in the operation of the business enterprise.
- b. Where the Director has reasonable grounds to believe, based upon information obtained by the Office of Diversity and Inclusion that an MBE/WBE may be subject to De- Certification, the Director may suspend the certification of the MBE/WBE while the De- Certification matter is pending. The Director shall provide the MBE/WBE with written notice of suspension and during the period of suspension, the MBE/WBE shall be prohibited from bidding upon or entering into City contracts as a certified MBE/WBE. Upon a finding that an MBE/WBE has failed to re-certify in accordance with section (D)(1) or has violated any provisions of section (D)(2)(a), the Director shall provide the MBE/WBE with written notice of De-Certification.
- c. A business entity that has received a notice of suspension or de-certification from the Office of Diversity and Inclusion shall have a right of appeal in accordance with section 3907.03.
- d. Unless the suspension or de-certification decision of the Director is reversed on appeal, a business entity that has received a notice of suspension or de-certification from the Office of Diversity and Inclusion shall not apply for re-certification for one (1) year from the date of the notice of suspension or de-

certification.

- (E) MBE/WBEs certified by other government agencies will be required to be certified by the Office of Diversity and Inclusion regardless of other certification. However, the Director may promulgate rules and regulations allowing for an expedited process for MBE/WBE certification by the city if the business entity has a current certification from agencies/organizations specifically approved by the Director.

**3903.09 - Joint ventures.**

- (A) The Office of Diversity and Inclusion, in conjunction with the City Departments, shall promote, where economically feasible, the formation of joint ventures to facilitate additional prime contracting opportunities for certified MBE/WBEs on eligible projects or contracts. A joint venture shall be defined as an association of two (2) or more business enterprises, one or more of which is an MBE/WBE, established as a single business enterprise to carry on a single business activity that is limited in scope and duration. The Office of Diversity and Inclusion shall promulgate rules and regulations pertaining to the certification of project-specific MBE/WBE joint ventures, including the establishment of criteria for certification. The criteria shall include, but not be limited to:
- 1) The initial capital investment of each venture partner;
  - 2) The proportional allocation of profits and losses to each venture partner;
  - 3) The sharing of the right to control the ownership and management of the joint venture;
  - 4) Actual participation of the venture partners in the performance of the contract;
  - 5) The method of and responsibility for accounting;
  - 6) The methods by which disputes are resolved; and
  - 7) Other pertinent factors of the joint venture.
- (B) The certification of a joint venture will be limited to the duration of the contract for which certification as a joint venture was requested and shall terminate upon completion of the city contract for which the joint venture was formed.
- (C) An Employee Stock Ownership Plan (ESOP) or similar defined benefit or defined contribution plan shall not be eligible for certification as a joint venture.

**Chapter 3904 - ~~SMALL LOCAL~~ REGIONAL BUSINESS ENTERPRISE PROGRAM**

**3904.01 - ~~Small Local~~ Regional Business Enterprise Program**

- (A) The City is committed to maximizing contracting opportunities for Small ~~Local~~ Regional Business Enterprises (~~SLBEs~~ SRBEs) on construction, professional services, and goods and services contracts for ~~SLBEs~~ SRBEs located ~~in the City of Columbus~~ in the following counties: Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Pickaway, or Union. The ~~SLBE~~ SRBE Program is intended to further the City's compelling interests in stimulating economic development through the support and empowerment of the ~~local community~~ region, ensuring that the City is neither an active nor passive participant in marketplace discrimination, and promoting equal opportunity for all segments of the contracting community.
- (B) The ~~SLBE~~ SRBE Program provides a unique opportunity for eligible ~~Columbus~~ regional ~~local~~ small businesses to engage in the City's procurement process. The program includes a sheltered market program and a requirement that all departments shall take active affirmative steps to ensure that small ~~local~~ regional businesses are able to participate in City contracts as prime contractors, subcontractors, or both.

**3904.02 Certification of ~~SLBEs~~ SRBEs**

- (A) Eligibility Criteria for ~~SLBE~~ SRBE Certification. A business enterprise that wishes to make application to the Office of Diversity and Inclusion to be certified as an ~~SLBE~~ SRBE shall submit a

completed ~~SLBE~~ SRBE Certification Application, a signed affidavit, and supporting documentation affirming that the ~~SLBE~~ SRBE meets all of the following minimum eligibility criteria:

- 1) Is an independently and directly owned, operated, and controlled for-profit business ~~concern~~ that is licensed to do business in the state of Ohio performing a commercially useful function that is not a subsidiary of another business and is not dominant in its field of operation;;
- 2) ~~Is headquartered and domiciled~~ Has a physical presence in the City of Columbus one of the following counties: Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Pickaway, or Union;
- 3) Has been established for at least ~~six (6) months~~ one (1) year;
- 4) Has fewer than twenty-five (25) full-time employees or full-time employee equivalents;
- 4) ~~Is at least 51% owned by one or more individuals whose personal net worth and adjusted gross income do not exceed \$750,000, or in the case of any publicly owned business, at least 51% of its stock is owned by one or more individuals whose personal net worth and adjusted gross income do not exceed \$750,000;~~
- 5) ~~The SLBE's management and daily business operations are controlled by one or more of the owners who meet the 51% ownership threshold and whose personal net worth and adjusted gross income do not exceed the \$750,000 cap;~~
- 5) Has an average gross annual receipt in the prior three fiscal years that does not exceed \$1,000,000. If a business has not existed for three years, the gross annual receipts will be based upon the annual averages over the course of the existence of the business.

(B) Ineligible businesses. A business enterprise is ineligible for consideration for ~~SLBE~~ SRBE Certification if:

- 1) Any of its principals or owners are also the principals or owners of another entity that does not meet the eligibility criteria for an ~~SLBE~~ SRBE.
- 2) The business enterprise has been placed on the adverse determination list by the Wage Theft Prevention and Enforcement Commission in accordance with Chapter 377 of the Columbus City Code.
- 3) It has been determined by the Office of Diversity and Inclusion that a representative of the business enterprise previously made a materially deceptive or fraudulent statement or omission or otherwise intentionally misrepresented any fact that may have been considered in making a certification determination during any certification process provided for in the Diversity and Inclusion Code within the prior three years.
- 4) The business enterprise has been or is currently facing suspension or debarment in accordance with provisions of Chapter 329 of the Columbus City Codes.
- 5) Certification. Upon receipt of a submitted ~~SLBE~~ SRBE Certification Form, the Office of Diversity and Inclusion will review and evaluate applications and may reject an application based on one or more of the following:
  - a. The applicant does not meet the ~~SLBE~~ SRBE eligibility or the applicant is ineligible for certification as provided in division (B);
  - b. The application is not satisfactorily completed;
  - c. The application contains false information or a representative of the business enterprise has made a materially deceptive or fraudulent statement or omission or otherwise intentionally misrepresented any fact that may be considered in making a certification determination during the certification process; or
  - d. The applicant has not provided materials or information requested by the Director.
- 6) Once it is determined that a business enterprise meets the minimum eligibility requirements and is not otherwise ineligible for certification as an ~~SLBE~~ SRBE, the Office of Diversity and Inclusion will determine the scope of the ~~SLBE's~~ SRBE's certification.
  - a. Certification will be granted for only the specific areas of work in which the ~~SLBE~~

SRBE has been found by the Office of Diversity and Inclusion to have the requisite skills, knowledge, and ability to perform in the field of endeavor in which certification is sought, as defined by normal industry practices, including licensure where required.

- b. Certification for specific areas of work does not mean the SLBE SRBE is prequalified to bid on any city contract, including contracts included in the SLBE SRBE program. Certification does not constitute a finding that the SLBE SRBE meets the requirements that the City may have for any given contract award.
  - 7) The Director will make a final certification determination within 90 days after the date the Office of Diversity and Inclusion receives a satisfactorily completed application from the applicant. If certification is denied, the Director will notify the applicant in writing and specify the reason(s) for the denial. Unless the applicant is successful in a timely appeal of the denial of certification, the applicant may not reapply for the same type of certification for a period of one year from the date of the notice of denial.
  - 8) A business entity that has received a notice of denial of certification from the Office of Diversity and Inclusion shall have a right of appeal in accordance with section 3907.03.
  - 9) Certification as an SLBE SRBE expires two years from the date of certification. SLBEs SRBEs have a continuing, affirmative obligation to notify the Office of Diversity and Inclusion of any change in its circumstances affecting its continued eligibility for the SLBE SRBE program.
- (C) Re-Certification, De-Certification and Suspension.
- 1) Re-Certification.
    - a. SLBEs SRBEs seeking re-certification shall submit a completed SLBE SRBE Re-certification Form (SLBEsSRBE-R) to the Office of Diversity and Inclusion no sooner than 60 days prior to the expiration of their SLBE certificate.
    - b. Failure of an SLBE SRBE to seek re-certification by filing the necessary SLBEsSRBE-R form with the Office of Diversity and Inclusion within 60 days following the expiration of its certificate shall result in automatic decertification.
  - 2) De-Certification and Suspension.
    - a. An SLBE SRBE may be De-Certified when the Director finds that the SLBE SRBE:
      - i. Ceases to meet the eligibility and/or certification requirements for their SLBE SRBE Certificate; or
      - ii. Has provided materially false or misleading information to the city in seeking certification or re-certification; or
      - iii. Has failed to perform a Commercially Useful Function under a contract, or
      - iv. Has allowed its SLBE SRBE status to be fraudulently used for the benefit of a non- SLBE SRBE firm or the owners of a non-SLBE SRBE firm so as to provide the non-SLBE SRBE firm or firm owners benefits from the Program for which the non-SLBE SRBE firm and its owners would not otherwise be entitled; or
      - v. Has exhibited gross negligence, incompetence, financial irresponsibility, or misconduct in the operation of the business enterprise.
    - b. Where the Director has reasonable grounds to believe, based upon information obtained by the Office of Diversity and Inclusion, that an SLBE SRBE may be subject to De- Certification, the Director may suspend the certification of the SLBE SRBE while the De- Certification matter is pending. The Director shall provide the SLBE SRBE with written notice of suspension and during the period of suspension, the SLBE SRBE shall be prohibited from bidding upon or entering into City contracts as a certified SLBE SRBE.
    - c. Upon a finding that an SLBE SRBE has failed to re-certify in accordance with section



(D)(1) or has violated any provisions of section (D)(2)(a), the Director shall provide the ~~SLBE~~ SRBE with written notice of De-certification.

d. A business entity that has received a notice of suspension or de-certification from the Office of Diversity and Inclusion shall have a right of appeal in accordance with section 3907.03.

e. Unless the suspension or de-certification decision of the Director is reversed on appeal, a business entity that has received a notice of suspension or de-certification from the Office of Diversity and Inclusion shall not apply for re-certification for one (1) year from the date of the notice of suspension or de-certification.

### **3904.03 - Sheltered Market Program**

The Office of Diversity and Inclusion Director may, in conjunction with the procurement manager, designate certain procurements as sheltered market procurement opportunities and establish criteria to determine whether to utilize the sheltered market solicitation.

### **3906.02 - Equal opportunity clause**

(A) The contracting agencies of the City are directed to include the following equal opportunity clause in all contracts. The inclusion of this clause may be waived by the Office of Diversity and Inclusion Director where it is appropriate due to a similar clause requirement by state or federal law. The requirements contained in this clause will be considered by the Office of Diversity and Inclusion Director in determining whether a contractor is in compliance with Title 39.

(B) Equal Opportunity Clause:

- 1) The contractor/vendor/bidder will not unlawfully discriminate against any employee or applicant for employment because of race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, familial status or military status. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, familial status or military status. Such action shall include, but not be limited to, the following: employment up-grading, demotion, or termination; rates of pay or other forms of compensation; and selection for training. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices summarizing the provisions of this Equal Opportunity Clause.
- 2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that the contractor is an equal opportunity employer.
- 3) It is the policy of the City of Columbus that business concerns independently and directly owned, operated, and controlled by MBE/WBEs shall have the maximum practicable opportunity to participate in the performance of contracts awarded by the city.
- 4) The contractor shall permit access to any relevant and pertinent reports and documents by the Office of Diversity and Inclusion Director for the sole purpose of verifying compliance with this Title 39 and the Office of Diversity and Inclusion regulations. All such materials provided to the Office of Diversity and Inclusion Director by the contractor shall be considered confidential.
- 5) The contractor will not obstruct or hinder the Office of Diversity and Inclusion Director or his/her deputies, staff and assistants in the fulfillment of the duties and responsibilities imposed by Title 39 of the Columbus City Codes.
- 6) The contractor and each subcontractor will include a summary of this Equal Opportunity Clause in every subcontract. The contractor will take such action with respect to any subcontractor as is necessary as a means of enforcing the provisions of the Equal

Opportunity Clause.

- 7) The contractor agrees to refrain from subcontracting any part of this contract or contract modification thereto to a contractor not holding a valid certification number as provided for in Title 39.
- 8) Failure or refusal of a contractor or subcontractor to comply with the provisions of Title 39 may result in cancellation of this contract.

**3906.05 - Periodic review and reporting requirements.**

The Office of Diversity and Inclusion Director shall be responsible for the compilation, review and analysis of the following reports:

- (A) ~~Quarterly~~ Semi-annual utilization reports based upon city contract awards, contract payments, and vendor registration data;
- (B) Annual reports to city council and the mayor summarizing the progress made toward inclusion of certified businesses; recommendations for future action; and such other information as is requested;
- (C) Annual review and evaluation of the effectiveness of the program, as well as the need for modification of the program. To accomplish this evaluation, the Director may, in addition to the above stated reports, provide for studies and surveys as needed.

**3907.98 Periodic Council Review and Reauthorization.**

Council shall evaluate the effectiveness of the programs provided for in Title 39 in calendar year 2024 and every five (5) years thereafter and determine whether any of the programs merit extension. If Council determines that a program or program(s) provided for under Title 39 merit extension, Council may extend the program(s) for no longer than an additional five-year period.