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**Follow-up Report**

**Follow-up Audit of Small and Minority  
Business Resources Department**

**July 28, 2009**

Office of the City Auditor  
Austin, Texas

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# City of Austin

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Date: July 28, 2009  
To: Mayor and Council  
From: Taylor Dudley, Acting City Auditor  
Subject: SMBR Follow-up Audit

This report presents the results of our follow-up work on the Small and Minority Business Resources Department (SMBR) audit issued in February 2007. The purpose of this follow-up was to assess the progress that the department has made toward addressing the original audit findings and implementing the recommendations set forth in the original audit report.

We found that SMBR management accurately reported the status of all recommendations. SMBR management has implemented six recommendations from the 2007 audit and is in the process of implementing the remaining seven recommendations. Since our 2007 audit, SMBR staff has made several improvements in the areas of certification, monitoring, enforcement, and performance measurement. SMBR staff has also made some progress in managing records, training staff, and refining performance measures, but needs to do further work in those areas.

We appreciate the cooperation and assistance we received from SMBR staff during this audit.

Taylor Dudley, CIA, CGAP, CFE  
Acting City Auditor

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## COUNCIL SUMMARY

This report presents the results of our follow-up work on the Small and Minority Business Resources Department (SMBR) audit issued in February 2007. The purpose of this follow-up was to assess the progress that the department has made toward addressing the original audit findings and implementing the recommendations set forth in the original audit report.

We found that SMBR management accurately reported the status of all recommendations; SMBR has implemented six recommendations from the 2007 audit and implementation of the remaining seven recommendations is underway.

Overall, we found that SMBR staff has made considerable progress toward certifying minority and women-owned vendors since the 2007 audit. The certification function was transferred back to SMBR in January 2007. SMBR documented roles, responsibilities, and expectations of staff; and roles and responsibilities for updating and maintaining the City vendor database are well-defined. However, SMBR staff does not use the City vendor database to the full extent possible. Additionally, to address issues found in the 2007 audit report, SMBR staff reviewed certification records and the status of certified vendors in the City's database. SMBR staff has implemented a risk-based approach to perform site visits on certified vendors to verify certification eligibility. However, during our review, we found a few instances where SMBR staff did not conduct a site visit as intended.

To ensure proper contract monitoring and enforcement, SMBR management assigned monitoring of professional services contracts to the Post-Award Team. Staff in the City's Contract and Land Management Department (CLMD) and SMBR also collaborated to strengthen monitoring of rotation list contracts. Furthermore, SMBR worked with CLMD, Public Works, and the Law Department to clarify and improve the contract close-out process.

As for enforcement of the SMBR program rules, SMBR management updated the MBE/WBE program rules to incorporate progressive sanctions and developed a letter to the vendors outlining the rules. Violations of program rules are currently compiled manually and SMBR is in the process of obtaining software to improve reporting of enforcement decisions.

While SMBR management has made significant revisions to its performance measures and has improved its ability to get routine reports since the 2007 audit, most reports still require some manual steps and customized reporting is still a challenge. Additionally, SMBR management has implemented multiple records management controls and created a records management team; however, team members and other staff are unclear about their roles and responsibilities related to records management.

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## **BACKGROUND**

**This audit examined the status of all audit recommendations issued in our February 2007 Small and Minority Business Resources (SMBR) audit report.**

Our 2007 audit contained thirteen recommendations aimed at correcting problems in the data for Minority-Owned and Women-Owned Business Enterprise (MBE/WBE) vendors maintained in the City's vendor database; improving certification practices; improving monitoring of City contracts with MBE and WBE participation; ensuring enforcement of program rules; and improving SMBR management's ability to evaluate its performance and program effectiveness. In January 2009, SMBR management reported that the department had implemented six recommendations and implementation of the remaining recommendations is in progress. During this follow-up audit we assessed the status of each recommendation from the original audit.

### **SMBR's Role**

In February 1987, the Austin City Council passed an ordinance establishing the MBE/WBE Procurement Program. Since 1994, SMBR staff has been charged with administering the MBE/WBE Program. Prior to 1994, the program was administered by the Purchasing Office.

The MBE/WBE Program encourages minority, women, and disadvantaged business owner participation in City procurement activities by establishing annual participation goals for each group. In order to participate in the program as a Minority-Owned Business Enterprise (MBE) or Women-Owned Business Enterprise (WBE), a vendor must be certified with the City of Austin. A vendor's eligibility as MBE or WBE for certification with the City is primarily based on ownership and control, racial and ethnic identity, gender, business size, and business location. The program also utilizes Disadvantage Business Enterprises (DBE) for projects that receive federal funding.

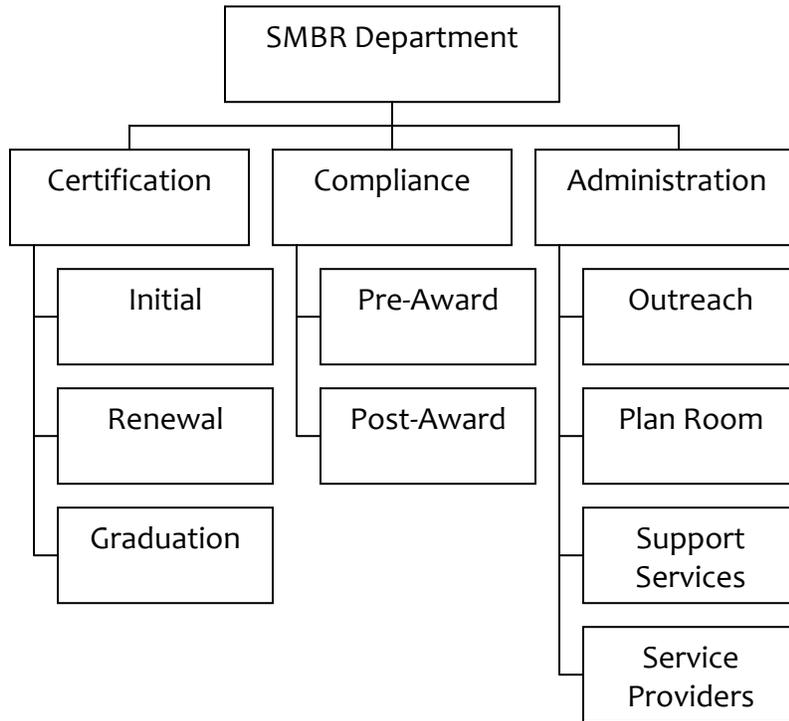
SMBR staff is responsible for providing outreach activities and technical support to MBE/WBE businesses through service providers to increase the number of City certified vendors. Furthermore, SMBR staff is charged with coordinating and supporting the MBE/WBE and Small Business Advisory Committee and Small Business Council Subcommittee.

### **Organization of SMBR**

Since our 2007 audit, SMBR management has made several organizational changes. In early 2007, SMBR management terminated its contract with an outside vendor, which had been in place since 2004, and reestablished an in-house certification process. In addition, since the original audit SMBR has a new director and assistant director.

SMBR currently consists of a certification team, a compliance team, and an administration team as depicted in Exhibit 1.

**EXHIBIT 1**  
**SMBR Organizational Chart**



SOURCE: SMBR’s Presentation on Procurement Program, May 2009.

The Certification team is responsible for monitoring new applications, reviewing certified businesses annually, and conducting site visits to ensure eligibility of certified vendors.

The Compliance team is responsible for reviewing and monitoring City projects with MBE or WBE participation from the beginning of the contract to the end. Monitoring is divided into two separate phases: pre-award and post-award. The Pre-Award Team is responsible for setting contract participation goals (or approving “no goal” requests if there are no subcontracting opportunities), developing a list that identifies available City certified MBEs/WBEs for the contract work, and reviewing and approving compliance plans submitted by the prospective bidders. The Post-Award Team is responsible for monitoring contracts after they are awarded by attending progress meetings and conducting phone and/or site visits, reviewing and approving changes to the compliance plan when there is a need to add or delete subcontractors, and reviewing and processing contract close-out requests.

The Administration team coordinates outreach activities, supports certification staff, administers contracts with outreach service providers, and manages the construction projects plan room at the SMBR facility.

## **OBJECTIVES, SCOPE, AND METHODOLOGY**

### **Objectives**

The purpose of this follow-up was to assess the progress that SMBR has made toward addressing the original audit findings and implementing the recommendations set forth in the original audit report. Specifically, our objectives were to:

1. Assess whether certification database and vendor records were corrected.
2. Assess whether steps were taken to improve controls over contract monitoring.
3. Determine whether controls over records management were established and implemented.
4. Determine whether performance measures were updated and a performance measurement system was established.

### **Scope**

The audit followed up on the thirteen audit recommendations contained in the SMBR audit report issued in 2007. Our scope included updates to program rules and departmental policies and procedures since the last audit, re-establishment of the certification process, collaboration with other City departments related to strengthening contract monitoring, and review of departmental databases utilized to assist the staff in the management of the certified vendors, records, and program violations.

### **Methodology**

To accomplish the audit objectives we performed the following steps:

- Reviewed departmental policies and procedures, certification process, and SMBR program rules.
- Interviewed staff in SMBR, the Purchasing Office, and the Contract Land and Management Department (CLMD).
- Observed SMBR staff performing certification related duties including conducting site visits and annual reviews.
- Observed SMBR staff performing records management duties.
- Analyzed a random sample of certified vendors to confirm whether site visits were conducted to ensure eligibility, verify the accuracy of vendor contact information in the City's Purchasing database, and verify that all required supporting documentation was contained in the file.
- Extracted and analyzed data from the City's project management database (eCAPRIS), the City's financial system (AIMS), and SMBR's certification database.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## FOLLOW-UP RESULTS

SMBR management has made considerable progress since the 2007 audit. SMBR management reestablished an in-house certification function in January 2007 and has done significant work to strengthen controls related to the certification process. In the area of certification, we found that SMBR staff has reviewed certification records and the status of certified vendors in the City's database to address issues found in the 2007 audit report. To ensure proper contract monitoring and enforcement, the Contract and Land Management Department (CLMD) and SMBR management and staff have collaborated to develop multiple controls and to strengthen monitoring. SMBR management has implemented multiple records management controls and improved its ability to get routine reports; however, team members and staff are unclear of roles and responsibilities related to records management. Furthermore, SMBR management has made significant revisions to its performance measures since the 2007 audit and uses these performance measures as a management tool.

As a result of this follow-up audit, we suggested several additional steps for implementation of our recommendations. For example, we suggested periodic training on information systems. Further, for certification decisions we recommend periodic review of vendor files for accuracy and completeness of contact information, commodity codes, and supporting information. Finally, we recommended that SMBR define roles and responsibilities for records management team members and develop records management policies.

**SMBR management has implemented six recommendations from the 2007 audit and implementation of the remaining seven recommendations is underway.**

The 2007 audit report contained thirteen recommendations. We tested all thirteen recommendations and verified the status reported by SMBR management. We found that SMBR accurately reported the status of all recommendations, as shown in Exhibit 2.

The remainder of this report contains detailed information about the status of the recommendations based on our follow-up work. This information is organized into four sections: certification, contract monitoring and enforcement, records management and performance measures. In each section we included the recommendation from the 2007 audit, management response, the results of our follow-up work, and suggestions for further addressing the 2007 recommendations.

**EXHIBIT 2:  
Summary of SMBR Audit Recommendations**

No.	2007 Audit Recommendation	2007 Management Concurrence	2009 Status Reported by Management and Verified by Auditors
1.	Correct existing errors in the City vendor database and ensure that status of certified firms is accurate.	Partially Concur	Implemented
2.	Institute a procedure to ensure that the City vendor database is consistently updated.	Concur	Implemented
3.	Ensure that roles and expectations for staff in the certification activity are clarified and documented.	Concur	Underway
4.	Ensure that relevant responsibilities for updating and maintaining the City vendor database are clarified and formally documented.	Concur	Implemented
5.	SMBR should annually perform site visits on a small representative sample of MBE and WBE firms.	Partially Concur	Implemented
6.	SMBR should assign monitoring of professional services project specific contracts to the Post-Award Compliance Team. Additionally, the Director of SMBR should coordinate with the Public Works Department to facilitate monitoring of rotation list contracts.	Concur	Underway
7.	SMBR should coordinate with the Public Works Department define procedures to improve the current process for closing out contracts.	Partially Concur	Underway
8.	SMBR should implement records management controls, such as creating a check-list to be used at contract close-out to ensure that all the proper documentation regarding contracts has been filed.	Concur	Underway
9.	SMBR should coordinate with the Law Department and the Purchasing Office to develop guidelines to assist SMBR staff in program enforcement, specifically for repeated violations of program rules.	Partially Concur	Implemented
10.	SMBR should develop a system to track violations of program rules by prime and subcontractors identified as well as correspondence and sanction letters sent to firms.	Concur	Underway
11.	SMBR should review and revise the existing measures to ensure that the measures tracked provide an accurate picture of performance in these activities.	Concur	Implemented
12.	SMBR should collaborate with Communications and Technology Management (CTM) and the Controller's Office to establish routine reports that are produced on a schedule that meets SMBR's needs.	Concur	Underway
13.	SMBR should develop a performance management system to monitor and improve its effectiveness.	Concur	Underway

SOURCE: Summary of SMBR's 2007 management response, SMBR's 2009 recommendation status report, and OCA's 2009 follow-up work.

## Certification

### **SMBR management re-established an in-house certification function and has done significant work to correct the certification database and improve documentation for certified vendors.**

The certification function was transferred from an external contractor back to the City and SMBR management established an internal certification process, documented staff expectations related to certification, and defined roles and responsibilities for updating and maintaining the City vendor database to ensure the certification status of vendors was reflected correctly in the City's databases. Furthermore, SMBR staff implemented a risk-based approach to performing site visits on certified vendors to verify eligibility.

#### **Recommendation #1**

In order to address current problems with the certified vendors' records in the City database, the Director of SMBR should ensure that existing errors in the City vendor database are corrected and that the status of certified firms is accurate.

**SMBR Management Response:** Partially Concur

#### **Summary of Explanation for Partial Concurrence from Management Response (February 2007):**

*SMBR agrees that inaccuracies in the City's database should be corrected. However, SMBR cannot concur with the extent of the problem as described in the audit report because several variables make it difficult to know the problem's true extent.*

#### **Last Status Reported by Management (January 2009):** Implemented

*The certification function was returned to the City of Austin in January 2007. Since then, SMBR has hired 5 full time employees to perform the certification function. Each certification record has been reviewed annually, and the status of certified firms in the City's database is accurate. New software will allow for vendors to see their certification status and receive automated alerts when renewal information is needed.*

**Verified Status:** Implemented

#### **SMBR staff is now performing the certification function in-house and the certification status of vendors is accurately reflected in the certification database. .**

In January 2007, the City terminated its contract with South Central Texas Regional Certification Agency (SCTRCA) for certification processing and transferred vendor certification files back to SMBR. The department organized a team of employees to review and update supporting documentation for each vendor. Since then, SMBR management has hired five full-time employees to perform the certification function. Management developed new job titles and descriptions for these positions, started drafting new policies and procedures, provided training to employees, and implemented in-house databases.

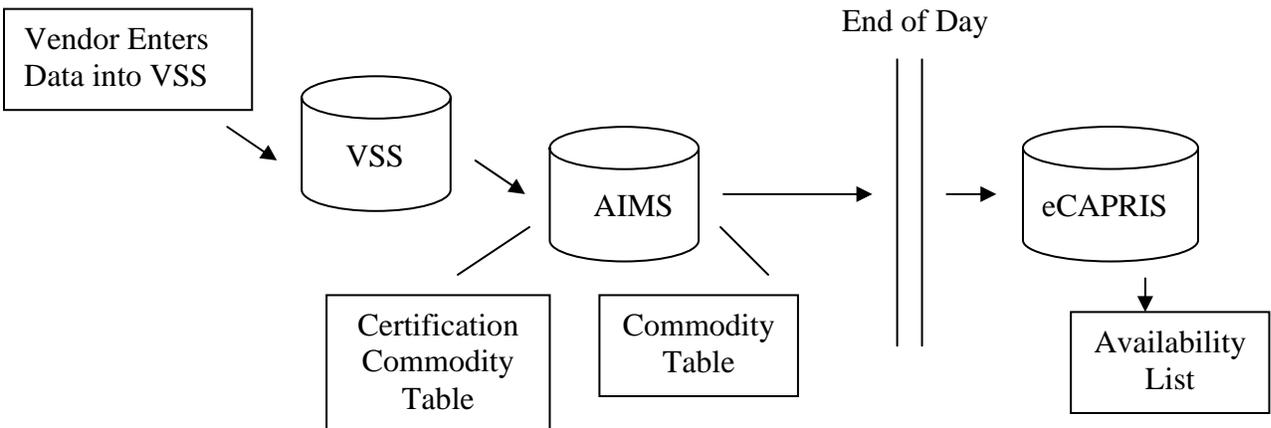
An in-house vendor certification process has been implemented to ensure the City's database is consistently updated when there is a change in the certification status of a MBE, WBE, or DBE vendor. All counselors and senior counselors review certification applications, annual reviews, and renewals in their entirety and make a recommendation to the lead counselor on a certification determination. The lead counselor signs off on approvals, and conflicting decisions are submitted to the Assistant Director and Director for approval.

A new vendor can contact SMBR staff directly or they can go to the department's website to access information on the requirements for becoming a certified vendor with the City and download the relevant forms. To become certified, the vendor must submit the certification application form with supporting documentation. The vendor must also become a registered City vendor by registering online using the web-based Vendor Self-Service (VSS) system prior to submitting the certification application form (See Appendix B for the form).

After the certified vendor data was brought back to SMBR, SMBR and the Purchasing Office staff established a data intake process to ensure the certification data was correctly entered or updated in AIMS, the City's financial system, by staff responsible for maintaining certification data. Business development counselors typically enter the vendor certification status into AIMS and verify the commodity codes selected by the vendor. If a vendor has more than twenty-five commodity codes, then an administrative specialist is responsible for verifying vendor commodity codes in AIMS. Annually, the business development counselors review the certification status and the supporting documentation to ensure all materials are still valid, the vendor is still operating, and the information in the database is accurate. Business development counselors are responsible for updating the internal certification database for the files they review. The administrative specialist updates the internal database for the activities such as sending out 30-day and 60-day renewal notices, inactive notices, and certificates. The internal certification database is a Microsoft Access database that keeps track of the vendor's certification status and any communication or interaction with the vendors.

Vendor information is downloaded daily to the certification database from AIMS, the City's financial system, where vendor and certification data is stored. Vendors enter information into the web-based VSS system, which links to AIMS. The vendor information is captured in AIMS and verified by Purchasing Office staff. At the end of the day, data in AIMS is uploaded to eCAPRIS, the City's project tracking database. The relationship between these City's databases is shown in Exhibit 3 below.

### EXHIBIT 3 City Database Linkage



SOURCE: Purchasing Office staff, May 2009

The last audit found multiple errors with the certified vendor records in the City’s database therefore we compared the number of certified vendors in VSS displayed on the SMBR website and the number of certified vendors in the certification database. There was a difference of one vendor. We also compared vendor information in the internal certification database to information in AIMS. Two certified vendors were shown in AIMS but not the internal database, and one certified vendor had a different address in AIMS than in the internal database. The senior programmer analyst indicated that the total number can differ due to the frequency and timing of updates for the website, certification database, and AIMS because data on the website is updated “real-time” to reflect data in AIMS and the certification database is updated once every morning to reflect data in AIMS.

As part of reestablishing an in-house certification function, management has defined and documented roles and responsibilities and established systematic organization for certification records, ultimately improving the accuracy of the data in the City’s databases.

#### **Suggested strategies for further implementation:**

- To ensure active certified vendor data is accurate in AIMS, SMBR management should implement routine, periodic AIMS training for all staff responsible for data entry into the system.

## **Recommendation #2**

In order to prevent future problems with certified firms' records, the Director of SMBR should institute a procedure to ensure that the City vendor database is consistently updated whenever there is a change in the certification status of a firm certified as MBE, WBE, or DBE for the City of Austin.

**SMBR Management Response:** Concur

**Last Status Reported by Management (January 2009):** Implemented

*With SMBR performing the certification function, once a Business Development Counselor certifies a firm's file, the Counselor certifies the vendor in the database. Vendors certified are accurately reflected as certified in the City's database. New software will allow for consistent and automated certification statuses to be uploaded for all necessary databases.*

**Verified Status:** Implemented

**We found that SMBR staff consistently followed the procedures for vendor certification and the certification database accurately reflects the status of certification vendors.** Once a vendor is certified, the vendor is required to verify their certification information in VSS annually even though their certification is valid for three years from the date of the initial certification. The vendor also must download, complete, and submit the certification renewal forms and provide supporting documentation to SMBR via mail every three years. After the vendor submits the supporting documentation to SMBR, the administrative specialist assigns the vendor to a business development counselor for review. The counselor uses a certification application review checklist as guidance to verify that all supporting documentation is received from the vendor and uses various websites to verify vendor information.

Once the counselor has verified that all documents are present and checked the information provided by the vendor, the counselor then determines whether the vendor complies with MBE/WBE rules and ordinances by following the steps outlined in the vendor certification process shown in Exhibit 4. When the review is complete, the counselor updates the vendor's status in the City's database.

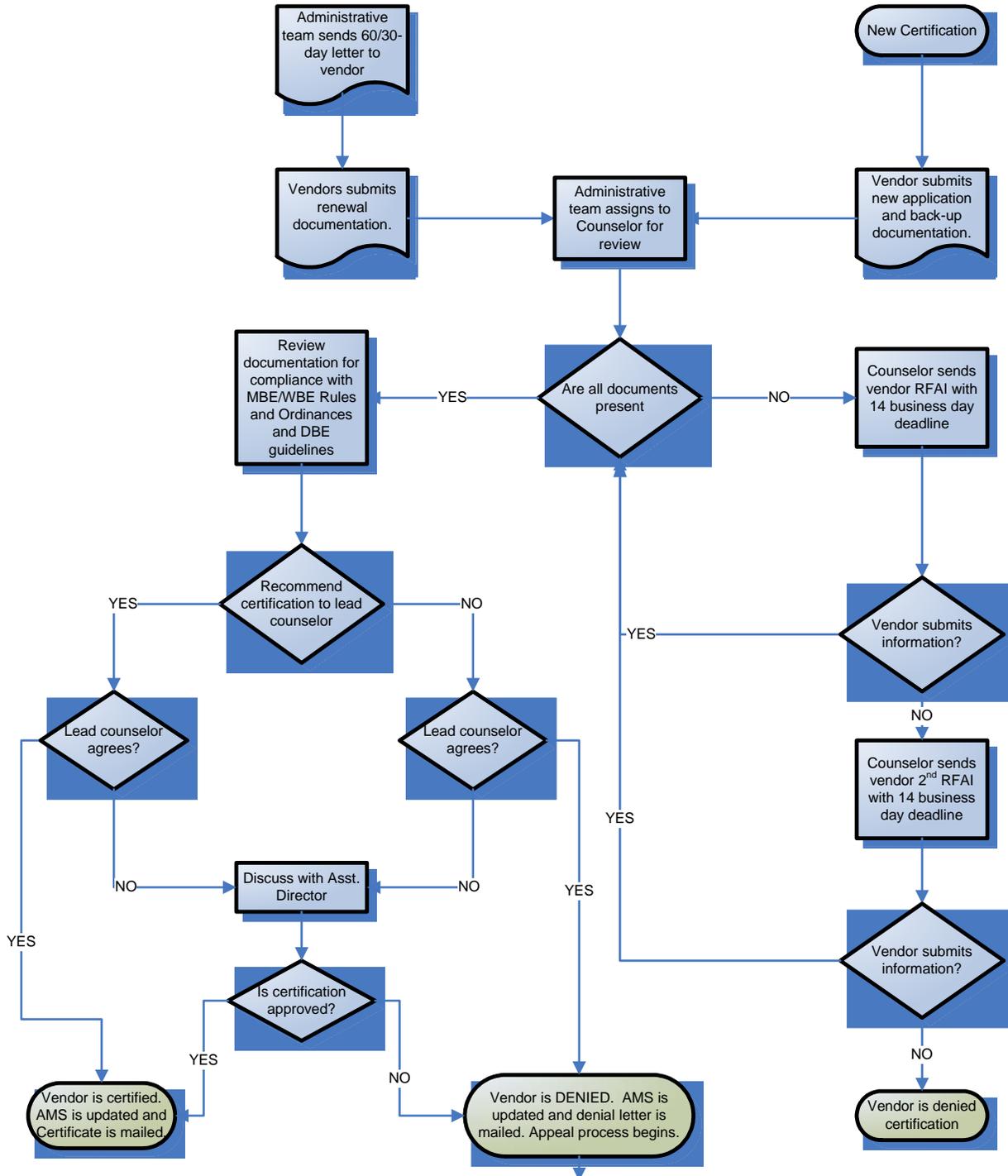
While the certification database accurately reflects the status of certified vendors, SMBR staff needs to maintain more complete documentation on certified vendors. In our review of files, we found that two of ten files sampled did not contain all of the required documentation to support the vendor's certified status. Specifically, one file was missing photo identification and another file contained unclear information about majority ownership.

### **Suggested strategies for further implementation:**

- In order to ensure the correct certification status has been granted to an active certified vendor, SMBR management should ensure that certification staff include

all applicable documentation in each vendor's hard copy file and ensure that documentation supports the certification granted to the vendor.

### EXHIBIT 4 Certification Process



SOURCE: SMBR management, May 2009



### **Recommendation #3**

In order to ensure sufficient monitoring of the certification activity, the Director of SMBR should ensure that roles and expectations for staff in the certification activity are clarified and documented.

**SMBR Management Response:** Concur

**Last Status Reported by Management (January 2009):** Underway

*The roles and responsibilities of certification staff have been clearly outlined in individual SSPRs and are communicated weekly in staff meetings, through memorandums and e-mails, and as needed. The certification process has been mapped out and used as a reference and the MBE/WBE Procurement Ordinance and Rules are used as references as well.*

*Outstanding Items: All certification policies are currently being drafted into a revised procedure manual. The previous procedure manual had been drafted when certification was outsourced.*

**Verified Status:** Underway

**Roles, responsibilities, and expectations of certification staff are outlined and documented; however we could not verify that all staff had been trained on new certification-related processes.** The roles and expectations of staff are noted in job descriptions and individual employee performance appraisals (SSPR) and are communicated via weekly departmental and team staff meetings. The SSPRs for the vendor certification team and support staff outline the different performance requirements for each employee. For example, a Business Development Counselor is encouraged to increase the number of certified MBE/WBE businesses available to do business with the City of Austin by 5% and administer the MBE/WBE Procurement Program to ensure that 100% of City-certified MBE/WBE vendors meet eligibility requirements.

Additionally, SMBR management hired a project manager to draft a policy and procedure manual for the certification and compliance functions. The project manager met with SMBR staff individually to get an idea of what the current practices were and reviewed a copy of the certification database. The project manager drafted documents that outlined the staff responses and presented them in their weekly staff meetings. As of May 2009, she had completed drafts and trainings of processes related to intake and review for certification.

Training sessions have been implemented periodically during weekly departmental staff meetings to provide guidance on topics such as the certification process, certification appeal process (See Appendix C for the appeal process), MBE/WBE procurement program rules, and progressive sanctions policies. All drafts of policies and procedures, presentations to management, and descriptions of roles and responsibilities are located on an internal network drive.

According to management, any changes, updates, or explanations are clarified through training, staff meetings, memorandums, and email communications. However, we discovered that staff meetings and trainings are not consistently documented and attendance at such meetings is not always noted.

**Suggested strategies for further implementation:**

- To ensure staff is aware of key messages, SMBR management should capture the employees that are unable to attend trainings or meetings and ensure they receive the information provided.

**Recommendation # 4**

In order to ensure the accuracy and validity of the information on active certified firms in the City vendor database, the Director of SMBR should ensure that relevant responsibilities for updating and maintaining the City vendor database are clarified and formally documented. This document should spell out the role, responsibilities, and access rights of all parties involved in the process, including SMBR and the Purchasing Office.

**SMBR Management Response:** Concur

**Last Status Reported by Management (January 2009):** Implemented

*SMBR and the Purchasing Office have worked extensively to clarify responsibilities. These responsibilities are documented in the training workbooks for the City's database, and are clarified through training. Any outstanding issues or questions are resolved and communicated through memorandum or e-mail.*

**Verified Status:** Implemented

**Roles and responsibilities for updating and maintaining the City vendor database are well defined, but SMBR staff needs additional training to utilize the City's vendor database to its full extent.** Maintenance of certified vendors' records in the City vendor database within AIMS requires cooperation between SMBR and Purchasing Office staff. In the 2007 audit, roles and responsibilities pertaining to the maintenance of certified vendors' records were not documented to clarify access restrictions or responsibilities for updating vendors' addresses and deleting outdated records.

We found that SMBR and Purchasing Office staff have collaborated to clarify roles and responsibilities. Access rights to the City vendor database and responsibilities of both the departments are defined within AIMS. In addition, SMBR certification staff was given training to clarify roles and responsibilities.

While roles and responsibilities are clear between the two departments, we found that SMBR staff does not utilize the City's vendor database to the full extent possible. Specifically, SMBR staff does not use the transaction reporting tool in City vendor database which allows them to track vendor created transactions to modify information such as commodity codes and vendor profile. SMBR staff creates a new transaction

instead of continuing to work with transaction drafts already created by the vendor. This leads to multiple drafts of the transaction, causing duplicate transactions and adds to the system load. Additionally, SMBR staff sometimes fails to follow-up on such transactions which can create a backlog. For instance, if a vendor initiates a transaction to add commodity codes in the City's vendor database, SMBR staff may not select this transaction to work on unless notified by the vendor. This has led to a backlog of transactions that require action by SMBR staff. SMBR staff indicated that they were unaware that tools to manage work flow more efficiently existed in the vendor database.

Our last audit found issues with incorrect addresses on file, so we tested a random sample of certified vendors and identified some incorrect contact information. To confirm accuracy of vendor contact information in the City vendor database, we randomly selected 30 certified vendors to confirm their contact information. We found that out of the 30 randomly selected certified vendors, two had incorrect phone numbers on file and therefore could not be contacted to verify their address information. Another five vendors had incorrect address information on file. One of these vendors indicated that they had contacted the City to provide updated information. We also verified vendor's email address and found that three of the 30 vendors tested had incorrect email addresses. Since the City relies on information in the City's vendor database to contact vendors about opportunities for contracting with the City, it is important that SMBR staff maintain the correct contact information to ensure that certified vendors receive relevant correspondence from the City.

**Suggested strategies for further improvement:**

- To ensure that City vendor database is used to its full extent, City Purchasing staff should provide refresher training on the uses of the City vendor database to SMBR staff.
- SMBR management should look for ways to ensure that certified vendor contact information is updated periodically.

**Recommendation # 5**

In order to ensure that only eligible firms are certified, the Director of SMBR should assign SMBR staff to annually perform site visits on a small representative sample of MBE and WBE firms to verify that firms are eligible under the City requirements and those firms have the capacity to perform under the commodity codes for which they are certified.

**SMBR Management Response:** Partially Concur

**Summary of Explanation for Partial Concurrence from Management Response (February 2007):**

*DSMBR agrees that only eligible firms should be certified and plans to continue the practice of federally-mandated site visits for Disadvantaged Business Enterprises (DBEs). DSMBR will also conduct site visits, as it has in the past, on at least a sampling of construction firms seeking MBE/WBE certification. As part of the resumption of the*

*certification function, DSMBR will continue the practice of conducting site visits to DBE firms. In addition, DSMBR will develop guidelines governing the site visits to construction firms.*

**Last Status Reported by Management (January 2009): Implemented**

*Site audits are performed as needed to resolve questions or concerns with a firm's application. SMBR is currently considering performing site audits every three years on all certified firms, however, has not implemented this process. Annual site audits are currently prohibitive due to staff time and workload.*

**Verified Status: Implemented**

**SMBR staff has implemented a risk-based approach to performing site visits on certified vendors to verify eligibility, but during our review we found a few instances where site visits were not conducted.** Site visits consist of interviewing the principal officers of the vendors, reviewing the officers' resumes and work histories, visiting any job site in the area where the applicant is currently performing work, and verifying submitted documents. During the last audit, management partially concurred with the recommendation and noted that all DBE vendors and a sampling of construction vendors seeking MBE/WBE certification will go through site visits, on-site verification to review certified vendor's continued eligibility. However, we found that SMBR staff adopted a risk-based approach and conducts site visits every three years:

- i) On all DBE vendors by federal mandate;
- ii) MBE/WBE vendors that are construction related vendors including non-professional construction-related codes such as hauling or landscaping; and,
- iii) Any potential certification denials due to concerns about eligibility.

SMBR staff does not perform site visits on professional services vendors that are MBE/WBE certified as most professional services vendors have a basic office setup – computer, fax, phone, and do not have much to observe in terms of operations. And, SMBR management indicated that conducting additional site visits would require additional staff resources and funds for mileage reimbursements.

We attended a site visit conducted by an SMBR employee and confirmed that the employee thoroughly prepared for the visit, provided helpful information to the vendor, and appropriately used the checklist for the site visit. Items on the checklist include observing the vendor's inventory for the type of service provided by the vendor and collecting information from the vendor to confirm ownership.

We also reviewed a random sample of 30 construction related vendor files to verify whether site visits were conducted on all construction related activities as indicated by management. We found that SMBR staff did not conduct a site visit on six of the vendors due to an oversight during the certification process. For one vendor, the site visit was not conducted because the annual review was not performed, which would have triggered the site visit. SMBR certification staff has indicated that the missed site visits will be assigned to business development counselors and resolved.

During our review of site visit related documentation, we also found a few instances where vendor profiles contained incorrect commodity codes. These vendors did not require a site visit, but appeared in our sample because construction codes appear on their vendor profile. Incorrect commodity codes on vendor profiles present inaccurate information about the vendor and can cause the City to send bid solicitations to the wrong vendors.

**Suggested strategies for further improvement:**

- To ensure that site visits are conducted to verify eligibility, SMBR management should review a sample of files periodically.
- To help maintain accurate vendor profiles, SMBR staff should conduct routine checks of commodity codes identified by vendors.

## **Contract Monitoring and Enforcement**

**SMBR management worked with the Contract and Land Management Department (CLMD), Public Works Department, Purchasing Office, and Law Department to improve contract monitoring and program enforcement.**

SMBR management assigned monitoring of professional services contracts to the Post-Award Team. CLMD and SMBR staff have been working together to strengthen monitoring for rotation list contracts by updating procedures, creating tracking forms, and setting up interdepartmental groups to discuss issues on a weekly basis. SMBR management has also worked with CLMD, Public Works, and the Law Department to clarify and improve the close-out process. As for enforcement of program rules, SMBR management updated the MBE/WBE program rules to incorporate progressive sanctions and developed a letter to the vendors outlining the rules. SMBR management also began tracking violations of program rules.

### **Recommendation #6**

In order to improve the level of monitoring performed on professional services contracts, the Director of SMBR should assign monitoring of professional services project specific contracts to the Post-Award Team. Additionally, the Director of SMBR should coordinate with the Public Works Department to facilitate monitoring of rotation list contracts.

**SMBR Management Response:** Concur

**Last Status Reported by Management (January 2009):** Underway

*Steps taken:*

*SMBR/CLMD has implemented the following processes to improve monitoring of rotation list contracts:*

- *Notifications are sent to subconsultants when assignments are made.*
- *Consultants are required to submit a subconsultant utilization form before starting assignments.*
- *Subconsultant utilization forms must be reviewed and signed by Project Manager, Supervisor, and CLMC Director. SMBR reviews the form.*
- *A monitoring report for all rotation lists is produced on a quarterly basis.*
- *SMBR adding additional staff to post award team.*

*Outstanding Items:*

- *Divide Compliance Division into two separate teams: (1) Pre-Award Team will handle all construction, professional services, and non-professional pre-award compliance activities; and (2) Post-Award Team will handle post award compliance activities for all construction, professional services, and non-professional services.*

- *New compliance software will provide better monitoring to staff and consultants/subconsultants with alerts.*
- *Implement internal training for SMBR Compliance staff.*

**Verified Status:** Underway

**SMBR management has assigned the Post-Award Team to monitor professional services contracts.** As of May 2009, SMBR management has divided the Compliance Team into a Pre-Award and Post-Award Team and has designated a Post-Award Professional Service Compliance Officer. This new structure allows the Post-Award Team to provide additional attention to monitoring contracts after they have been awarded; review and approve changes to the compliance plan when there is a need to add or delete subcontractors; and review and process contract close-out requests. SMBR staff has also developed a contract close-out verification form where Post-Award staff summarizes the vendor's qualifications, certification status, project goals, and whether the vendor was approved or denied for a project (See Appendix D for close-out form).

**CLMD and SMBR management and staff regularly collaborate on needed improvements and have been working together to strengthen monitoring for rotation list contracts.** CLMD was created out of Public Works in March 2008 at the direction of the City Manager. CLMD and SMBR's compliance officers developed and continue to provide input for a new Rotation List Management Procedural Handbook that reflects current practices. As a part of the new procedural handbook, CLMD and SMBR staff also developed multiple tracking forms and reports, including a sub-consultant utilization form and a quarterly rotation list monitoring report. In the future, SMBR and CLMD management would like to evaluate the initiatives that have been implemented over the past two years so they can determine what improvements or new initiatives may be needed.

**Suggested strategies for further implementation:**

- None

**Recommendation #7**

In order to ensure consistent and timely involvement in the close-out of contracts, the Director of SMBR should coordinate with the Public Works Department to define procedures to improve the current process. Such procedures should specifically address handling of close-out for professional services contracts; project specific and rotation list contracts.

**SMBR Management Response:** Partially Concur

**Summary of Explanation for Partial Concurrence from Management Response (February 2007):**

*DSMBR will improve its services and will coordinate with the Public Works Department to further define procedures for addressing contract monitoring. DSMBR notes that the*

*Audit team did not address the situation of expected scopes of work that were not utilized on rotation lists. This is an issue that will have to be addressed separately.*

**Last Status Reported by Management (January 2009):** Underway

*SMBR/CLMD has implemented the following items:*

- *Inter-Departmental Committee has been established to discuss processes and identify recommendations to revise procedures and forms and recommend changes to Upper Management.*
- *Inter-Departmental Trainings have been conducted on MBE/WBE Procurement Program.*
- *Evaluation forms are submitted at the end of every assignment completed on rotation contracts reviewed by Project Manager and SMBR to determine whether the Consultant complied with the requirements of the contract and the MBE/WBE Procurement Program.*

*Outstanding Items:*

- *SMBR and CLMD are in process of reviewing contract close-out procedures and identifying any opportunities for improvement.*

**Verified Status:** Underway

**SMBR management has worked with other departments to clarify and improve the close-out process.** Since 2007, SMBR and CLMD staff communicate on a regular basis. A coordinating team, made up of staff level employees from CLMD, Public Works Project Management, and SMBR project staff, meets regularly. The goal of the team is to address process issues related to the MBE/WBE program and makes recommendations to management. In addition to the coordinating team, there is a management team made up of SMBR and CLMD management that oversees the coordinating team. The management team, headed by the SMBR Director, has a standing weekly meeting where issues of concern expressed by the coordinating team are discussed. In addition, SMBR management has hosted several interdepartmental training sessions to increase understanding of the close-out process across the departments.

The close-out process is managed by the Project Management Division in Public Works. The Project Management Division works with the contract team from CLMD and SMBR's Compliance Team. CLMD and SMBR staff developed and implemented evaluation forms to assess steps of each project. And they continue looking at the process to find ways for further improvement (See Appendix F for evaluation letter). For example, CLMD is working on a contractor evaluation form due next fiscal year that would evaluate safety and quality issues and on a MBE/WBE training program for departments responsible for capital improvement projects.

**Suggested strategies for further implementation:**

- None

**Recommendation #9**

In order to ensure the enforcement of program rules, the Director of SMBR should coordinate with the Law Department and the Purchasing Office to develop guidelines to assist SMBR staff in program enforcement, specifically for repeated violations of program rules.

**SMBR Management Response:** Partially Concur

**Summary of Explanation for Partial Concurrence from Management Response (February 2007):**

*SMBR agrees that the progress it has already made in monitoring the contracts could be strengthened even further. However, DSMBR notes that, to the extent contract monitoring encompasses the enforcement of sanctions, flexibility is required. Rigid, mandated outcomes or punishments may not be legally or factually appropriate. Consideration of any violations must be made on a case-by-case basis.*

**Last Status Reported by Management (January 2009):** Implemented

*Steps Taken:*

- *MBE/WBE Procurement Program Rules have been updated to reflect*
- *Progressive Sanctions Policy (Became effective, April 16, 2008)*
- *Law Department provided training to SMBR staff on progressive sanction policy.*

*Outstanding Items:*

- *New compliance software will provide better tracking and reports of violations.*

**Verified Status:** Implemented

**SMBR management updated the MBE/WBE program rules to incorporate progressive sanctions and developed a letter to vendors outlining the rules.** With participation from the Law Department, SMBR management updated their program rules to reflect progressive sanctions for cases with repetitive violations. SMBR management sent letters to the vendors that clearly spelled out the sanctions that will occur with each repeated violation (See Appendix E for a sample of violation letter). SMBR management acknowledged that since the new letter has been in place, vendor protests have increased significantly because vendors understand that unauthorized actions will have negative consequences.

**Suggested strategies for further implementation:**

- None

## **Recommendation #10**

In order to ensure that enforcement decisions are made on accurate and complete information, the Director of SMBR should develop a system to track violations of program rules by prime and subcontractors identified as well as correspondence and sanction letters sent to firms.

**SMBR Management Response:** Concur

**Last Status Reported by Management (January 2009):** Underway

*Steps Taken:*

- *Monthly reporting of violations issued.*
- *Developed database to track violations and query reports.*

*Outstanding Items:*

- *Internal staff training on the database.*

**Verified Status:** Underway

**Violations of program rules are currently compiled manually; SMBR staff is in the process of obtaining software to improve reporting of enforcement decisions.** When the compliance team identifies a violation and prepares a letter, they check to see if the vendor had any prior violations and compose the letter accordingly. The Compliance Team lead, who approves all sanctions letters, updates an Excel spreadsheet monthly to capture violation information. The monthly violation report is then presented to SMBR Director for a decision about how the case will progress through the sanction ladder. The tracking system has been in place for a year now. So far, no vendor has received three violations, which would result in referral to the Controller's Office for suspension and department decisions.

SMBR IT personnel have been working to create an automated tracking and reporting system for program rule violations, but the system was not implemented during our audit. Instead, staff still looked through all violations letters previously issued to determine what sanction to apply.

**Suggested strategies for further implementation:**

- In order to improve the tracking of violations, SMBR staff should continue pursuing a more automated reporting process for violations.

## **Records Management**

**SMBR management implemented multiple records management controls, improved their ability to get routine reports, and continue to make improvements in this area.**

The department developed records management controls and routine reports that are used for decision-making. This included creating four in-house databases: a certification database, compliance database, outreach database, and file management database to assist SMBR staff with their day-to-day duties. SMBR management also created a records management team, however; team members and staff are unclear of roles and responsibilities. Also, while SMBR staff has made progress with creating reports for decision-making, most reports still require some manual steps to create.

### **Recommendation #8**

In order to improve contract data integrity, the Director of SMBR should implement records management controls, such as creating a check-list to be used at contract close-out to ensure that all the proper documentation regarding contracts has been filed.

**SMBR Management Response:** Concur

**Last Status Reported by Management (January 2009):** Underway

*Steps Taken:*

- *Training has been provided to SMBR staff on records management and retention.*
- *Archiving records within retention schedule.*

*Outstanding Items:*

- *Revising Compliance Records.*
- *Creating Close-Out Check Sheet.*
- *New compliance software will have workflow built in to ensure that all steps are complete at project close-out.*

**Verified Status:** Underway

**SMBR management implemented multiple records management controls, improved its ability to get routine reports, and continues to work in this area.** The department was tasked with developing records management controls and routine reports that are used for decision making. As a result, the department created and implemented four in-house databases, a certification database, compliance database, outreach database, and file management database, to assist business development counselors with their day-to-day duties. The databases help staff to manage new, existing, and former certified vendors; to monitor pre-award and post-award activities; to determine vendor contact information; and to track hardcopy vendor files. Each database is linked to AIMS, the City's financial system, and is programmed to refresh the data each morning. All four databases and the two City systems assist business development counselors in performing their daily duties. The counselors are able to produce and review reports such as the

monthly violation report, which shows vendor violations such as substituting a subcontractor without proper approval.

**SMBR staff has created in-house Access databases that partially satisfy their data tracking needs while waiting for a more integrated database.** SMBR management has requested a new database that will automate processes to help facilitate in monitoring certification statuses, improve tracking of violations, and ensure that all steps are complete at project close-out. Funding for the database was approved; however, Communications and Technology Management (CTM) put the purchase of the database on-hold then subsequently decided not to purchase the new software. Instead, CTM plans to expand the functionality of eCAPRIS to meet the department's needs.

SMBR management plans to incorporate checklists and reports that help business counselors monitor applications and contracts into the new, more integrated, tracking system. Currently, both certification and compliance counselors monitor certification statuses and contracts through the City's existing eCAPRIS and AIMS systems.

**One of the four in-house Access databases was created specifically for file management purposes to help track file locations and monitor records retention timeframes.** SMBR staff created an in-house file management database to help organize and track certified vendor files in the SMBR file room. The file management database was intended to supplement GAIN 2000, the City's records management system, and improve file data integrity. The file management database and GAIN 2000 data for SMBR are maintained by the records management team. Both databases are available, but are not fully utilized.

**SMBR management created a records management team however; team members and staff are unclear of roles and responsibilities.** The records management team is responsible for organizing, maintaining, archiving, and destroying files based on the approved records retention schedule. A records retention schedule was created and approved, but has not been properly utilized. As a result, files have not been archived or destroyed on time. According to management, SMBR staff and records management team members have received general records management training and have received a copy of the retention schedule however; not all staff that should have been trained recalled having attended this training.

In addition, we found that the records management team does not meet regularly, management has not created records policies and procedures, and SMBR management needs to ensure that additional training is provided for records team members as well as department staff.

**Suggested strategies for further implementation:**

- To ensure contract data integrity, SMBR management and CTM staff should continue to work to expand the functionality of eCAPRIS and implement the updated software to help confirm that all steps are complete at project close-out.

- To improve records management controls, SMBR management should implement routine, periodic records management training including GAIN 2000 for all staff with records responsibilities.
- To ensure records are properly managed, records management team members should create policies and procedures for records-related activities and define roles and responsibilities.

### **Recommendation # 12**

In order to ensure that SMBR has timely access to information needed for decision making, the Director of SMBR should collaborate with CTM and the Controller's Office to establish routine reports that are produced on a schedule that meets SMBR's needs.

**SMBR Management Response:** Concur

**Last Status Reported by Management (January 2009):** Underway

*Steps Taken:*

- *Budget Office created contract monitoring view on software used to monitor CIP projects. Information available is contract payout to prime contractor/consultant, total paid to certified subs to date, notes from compliance staff, and link to contract information compliance plan.*

*Outstanding Items:*

- *Acquire certification and compliance software to generate needed SMBR reports.*

**Verified Status:** Underway

**While SMBR staff has made progress with establishing routine reports, most areas still require some manual steps to create customized reports.** In order to evaluate its operational performance and to make informed decision-making, SMBR management should have relevant information about its performance and should be able to share such information with its stakeholders, including the Minority-Owned and Women-Owned Business Enterprises and Small Business Council Subcommittee and the MBE, WBE, and Small Business Enterprise Procurement Program Advisory Committee. In our 2007 audit, SMBR management could not access information to evaluate operational performance or historic impact on overall MBE and WBE participation.

Currently, information for reports to assist with evaluating performance and SMBR impact is contained in SMBR's internal certification database, the City's vendor database, and eCAPRIS. SMBR staff has made progress since the 2007 audit and currently generates several reports in-house. Examples include 'Council Awards report', 'Request for Change report', 'Violation report', and a few certification-related reports to administer upcoming renewals and inactive vendors. SMBR staff also depends on the expertise of Purchasing Office staff and CLMD staff for some other reports that are more complex.

While improvements have been made in this area, SMBR's report creating process is very time consuming. SMBR staff manually pulls together many reports, especially reports that require historical information. SMBR staff also does not have the ability to generate complex ad hoc reports, mainly due to software limitations. In fact, one member of the MBE, WBE, and Small Business Enterprise Procurement Program Advisory Committee indicated that reports have evolved over time, but progress needs to be made in this area to make the most educated decisions. SMBR staff is anticipating that new software will help staff generate more customized and automated reports.

**Suggested strategies for further implementation:**

- To make creating reports easier, SMBR staff should continue to pursue tools that enable them to automate and customize reports.

## *Performance Measurement*

**SMBR management updated its performance measures and developed elements of a performance measurement system.** In addition to creating the business plan and documenting mission and goals, SMBR management significantly changed its performance measures to reflect current practices. Additionally, SMBR management reviews and updates performance measures annually and plans to further develop their performance management system once they have better software in place for tracking various SMBR activities.

### **Recommendation # 11**

In order to effectively evaluate performance in the areas of contract monitoring and program enforcement, the Director of SMBR should review and revise the existing measures to ensure that the measures tracked provide an accurate picture of performance in these activities.

**SMBR Management Response:** Concur

**Last Status Reported by Management (January 2009):** Underway  
*2008-2009 Department Performance Measures have been updated to capture compliance activities that are currently monitored by SMBR.*

**Verified Status:** Implemented

**SMBR management made significant revisions to their performance measures since our 2007 audit.** SMBR management has made updating performance measures a systematic annual process. Since 2006, ten out of twelve performance measures have been updated; some of them involved wording changes, but many measures have been completely replaced to reflect current practices. SMBR management has revised wording for measures that were unclear and now tracks the number of site visits conducted. SMBR management does not have a specific activity for contract enforcement, but does have a measure that tracks violations within the compliance area. Enforcement activities are also tracked through the detailed “Requests for Change” report available online. To date, SMBR management does not track the percentage of business that met program goals.

### **Suggested strategies for further implementation:**

- To further improve performance measures, the SMBR Director should focus on output and efficiency measures during the next annual review of measures.
- To track the percentage of the projects that met program goals over time, the SMBR Director should add a step to the close-out process to capture whether each project met program goals and to be able to query the results for management purposes.

### **Recommendation # 13**

In order to assist SMBR in meeting and evaluating its goals and objectives, the Director of SMBR should develop a performance management system to monitor and improve its effectiveness. This system should tie the following components: department mission, goals, performance measures, implementation, and assessment.

**SMBR Management Response:** Concur

**Last Status Reported by Management (January 2009):** Underway

*Steps Taken:*

- *SMBR currently monitor and report all the items listed in a stand alone state.*

*Outstanding Item:*

- *Develop a performance management system.*

**Verified Status:** Underway

**SMBR management has made progress in establishing a performance management system to monitor and improve its effectiveness.** SMBR management has documented the business plan, mission, goals, and performance measures in a stand-alone state. SMBR management has revised performance measures to make it more meaningful and to reflect current practices. In addition, SMBR management has made updating performance measures a systematic annual process. SMBR staff is awaiting increased functionality in eCAPRIS which will also aid in development of a performance management system. And, SMBR management stated that they have started using the performance measures as a management tool to monitor workload, efficiency, and track improvement from one period to another.

**Suggested strategies for further implementation:**

- None

**APPENDIX A**  
**MANAGEMENT RESPONSE**





# City of Austin

## Small and Minority Business Resources

P.O. Box 1088, Austin, TX 78767-8839

Phone: 512/ 974-7600, Fax: 974-7601

<http://www.cityofaustin.org/smbr>

### MEMORANDUM

To: Taylor Dudley, Acting City Auditor  
Office of the City Auditor

From: Stephen Elkins, SMBR Director

Date: July 22, 2009

Subject: Response to Follow-up Audit of Small and Minority Business Resource

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I have reviewed the findings of the follow-up audit report dated July 28, 2009, and would like to acknowledge the audit findings. In this follow-up, the Office of the City Auditor determined that Small Minority Business Resources (SMBR) has successfully implemented six (6) out of thirteen (13) recommendations.

SMBR concurs with the remaining seven recommendations and is in the process implementing of those recommendations. SMBR is working with the Budget Office to add enhancements to CIP system to address software needs identified in the audit. The first phase of enhancement will be delivered by September 15, 2009. SMBR is also committed to training all employees in existing procedures, new procedures, as well as assuring staffs continue participation to improve on the effectiveness in their area of businesses (ie: Certification, Compliance, and Records management). Since the time the follow-up audit was performed SMBR's Compliance rotation list management has been divide into two teams; pre-award and post-award.

In closing SMBR would like to express the department's gratitude to the Office of the City Auditors staff for the time and attention devoted to improving the operational needs for the department.

Handwritten signature of Stephen A. Elkins in cursive.

Stephen Elkins  
Director

*The City of Austin is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.*



**APPENDIX B**  
**CERTIFICATION APPLICATION REVIEW**



## Certification Application Review

Firm: \_\_\_\_\_

Counselor: \_\_\_\_\_

Date: \_\_\_\_\_

*This document paraphrases the MBE/WBE Program Rules. Refer to the entire text of the Rules and Ordinances as analysis is conducted.*

MBE/WBE Program Requirement	Req. Met?
<b>Ownership and Control</b>	
2.2.1 A. Financial resources B. Independent and unilateral decision making C. Possess adequate assets or resources D. Commensurate risks and profits E-G. Control of organization based on business structure	
2.2.2 Real, continuing and beyond the pro forma ownership	
2.2.3 Assets for acquisition derived from independently owned holdings	
2.2.4 Contributions of capital or expertise	
2.2.5 Day-to-day decisions on the applicant's major and essential operations.	
2.2.6 Active and substantial participation in the management of the applicant's day-to-day activities.	
2.2.7 Non-qualifying owners shall not have the primary responsibility or ability to direct its day-to-day management operations.	
2.2.8 Prohibition of intra-family transfers of ownership	
<b>Documents provided:</b> _____ _____	
<b>Analysis:</b> _____ _____	
<b>OWNERSHIP AND CONTROL REQUIREMENTS MET?</b>	<b>Y __ N __</b>
<b>Viability and Independence</b>	
2.3.1 Viability by capital structure: A) insurance, bonds, and/or licenses mandated by applicable governmental agencies B) access to real properties and facilities C) employment of persons in sufficient numbers and expertise D) ownership and access to equipment, goods and supplies	
2.3.2 Independent business A) Performance in area(s) of specialty without reliance of finances, resources, expertise, staff or equipment on non-minorities and/or men B) Independence established by industry practices. C) Based on date applicant was established.	

<p>2.3.3 Viably and independence of non-minorities or men</p> <p>A) Status as party to any long-term contract, lease or lease agreements other than for real property equipment or employment with non-minorities and/or men.</p> <p>B) Variance to industry standards or prudent business practices.</p> <p>C) Inter-locking stock ownership of applicant and non-minority and/or men- owned businesses in the same or related industry.</p> <p>D) Common directors or officers between of applicant and non-minority and/or men- owned businesses</p> <p>E) Use of employees, equipment expertise, or facilities shared with or obtained at less than fair market value from non-minority and/or men- owned businesses</p> <p>F) Receipt of non-minority and/or men owners financial benefits exceed proportionate ownership interests.</p> <p>G) Newly established firms and firms whose ownership has changed since the date of advertisement of a solicitation or the date an applicant has indicated a bid response has been submitted.</p> <p>H) Previous and continuing employer-employee relationships between minority and/or women owners and non-minority and women owners.</p>	
---	--

<p><b>Documents provided:</b> _____</p> <p>_____</p> <p><b>Analysis:</b> _____</p> <p>_____</p> <p style="text-align: center;"><b>VIABILITY AND INDEPENDENCE REQUIREMENTS MET?</b></p>	<p>Y __ N __</p>
--	------------------

<b>Scopes of work</b>	
-----------------------	--

2.4.2 MBEs and WBEs may be certified in multiple scopes of work as long as eligibility criteria are met.	
--	--

2.4.3 Licenses and certification required by standard industry practice	
---	--

<p><b>Documents provided:</b> _____</p> <p>_____</p> <p><b>Analysis:</b> _____</p> <p>_____</p> <p style="text-align: center;"><b>SCOPES OF WORK REQUIREMENTS MET?</b></p>	<p>Y __ N __</p>
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<b>Racial and Ethnic Identity and Gender</b>	
--	--

2.5.1 Membership to a minority group (evidence by birth certificate or statement of ethnicity)	
--	--

2.5.3 Female owners require a birth certificate, driver's license or other document	
---	--

2.5.4 A minority woman may be certified as both a MBE and a WBE upon demonstration that the certification criteria have been independently met for both certifications	
--	--

<p><b>Documents provided:</b> _____</p> <p>_____</p> <p><b>Analysis:</b> _____</p> <p>_____</p> <p style="text-align: center;"><b>Racial and Ethnic Identity and Gender REQUIREMENTS MET?</b></p>	<p>Y __ N __</p>
---	------------------

<b>Determination of Business Size</b>	
2.6.2 The firm must meet the standards established by the U.S. SBA in 13 C.F.R. Part 121	
Documents provided: _____ _____	
Analysis: _____ _____	
<b>Determination of Business Size REQUIREMENTS MET?</b>	

<b>Determination of Business Location</b>	
2.7 Facility located in the state of Texas with adequate personnel, equipment, materials and facilities to perform its area(s) of specialty for at least three months before the date of its application	
Documents provided: _____ _____	
Analysis: _____ _____	
<b>Determination of Business Location REQUIREMENTS MET?</b>	

<b>Determination of Economic Disadvantage</b>	
2.8 Firm must have a personal net worth under the limit and provide documentation.	
Documents provided: _____ _____	
Analysis: _____ _____	
<b>Determination of Economic Disadvantage REQUIREMENTS MET?</b>	

<b>Certification by Other Governmental Agencies</b>	
2.9 Certification as a MBE, WBE or DBE by another governmental agency is a factor, but not conclusive	
Documents provided: _____ _____	
Analysis: _____ _____	

Overall Analysis: _____ _____	
Certification determination: __ Approved __ Denied	
Counselor's signature: _____	Date: _____
Lead Counselor's signature: _____	Date: _____



**APPENDIX C**  
**CERTIFICATION APPEAL PROCESS**







**APPENDIX D**  
**CONTRACT CLOSE-OUT VERIFICATION FORM**



**CONTRACT CLOSE-OUT**

**Verification Form**

Date Received \_\_\_\_\_ Date Assigned \_\_\_\_\_ Assigned To \_\_\_\_\_

Prime Contractor \_\_\_\_\_ Solicitation No. \_\_\_\_\_

Project Name: \_\_\_\_\_

Project Manager \_\_\_\_\_ Requesting Dept.: \_\_\_\_\_

**PARTICIPATION SUMMARY:**

	<b>SOLICITATION GOALS</b>	<b>ORIGINAL COMPLIANCE PLAN PARTICIPATION</b>	<b>FINAL CLOSE-OUT PARTICIPATION</b>
<b>MBE</b>	_____	_____	_____
<b>African American</b>	_____	_____	_____
<b>Hispanic</b>	_____	_____	_____
<b>Asian/Native American</b>	_____	_____	_____
<b>WBE</b>	_____	_____	_____
<b>DBE</b>	_____	_____	_____

RECOMMENDATION:  APPROVAL  DENIAL Is a program violation letter required?  Yes  No  
*(If yes, attach violation letter.)*

Justification for Approval or Denial: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**COMPLETED BY:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

The contract close-out has been  Approved or  Denied for the following reasons:  
 No outstanding payments discrepancies.  discrepancies between the report from the prime and the subcontractors (i.e. payments).  
 outstanding payments.



**APPENDIX E**

**VIOLATION LETTER WITH PROGRESSIVE SANCTIONS**



**[Date]**

**[Address of Recipient]**

Re: *Notice of MBE/WBE Procurement Program Violation — [Project Name and Solicitation Number]*

Dear **[Recipient Name]**:

The Department of Small & Minority Business Resources (DSMBR) found a violation of the City's MBE/WBE Procurement Program during its review of the contract close-out materials for **[Project Name and Solicitation Number]**. In the compliance plan submitted to DSMBR for this contract, you listed **[Name of Certified Firm]** for **[Scope of Work]**. The contract close-out materials indicates that **[Name of Uncertified Firm]** completed **[Scope of Work]**. Our records show that you did not receive prior written authorization for this change from DSMBR. Please contact DSMBR if your records show otherwise.

As you know, failure to obtain a prior authorization for changes to the compliance plan is a violation of the MBE/WBE Procurement Program. The City's MBE/WBE Ordinance states as follows:

Section 2-9a-23(A) The contractor cannot make changes to the compliance plan or substitute MBE/WBE Subcontractor listed on the compliance plan without the prior written approval of the Director. Unauthorized changes or substitutions shall be a violation of this chapter, and my constitute grounds for rejection of the Bid or Proposal or cause termination of the executed Contract for breach, and/or subject the Bidder/Proposer to Contract penalties or other sanctions.

Section 2-9A-23(B) All requests for changes or substitutions of the Subcontractors listed in the compliance plan shall be made to the Director in writing, and shall clearly and fully set forth the basis for the request. A Contractor shall not substitute a Subcontractor or perform the work designated for a Subcontractor in the compliance plan with its own forces unless and until the Director approves such substitution in writing. A Contractor shall not allow a substituted Subcontractor to begin work until both the Director and the City's project manager overseeing the completion of the Contract have approved the substitution.

Section 2-9A-23(I) If a Contractor plans to hire a Subcontractor on any scope of work not previously disclosed in the compliance plan, the Contractor shall obtain the approval of the Director to modify the compliance plan and must make Good Faith Efforts to ensure the MBE/WBEs have fair opportunity to Bid on the new scope or work

You may access the full text of the Ordinance and the MBE/WBE Procurement Program Rules at <http://www.ci.austin.tx.us/smbr/rules.htm>

Our records show that this is your \_\_\_\_\_ violation of the MBE/WBE Ordinance during the past two year period. Pursuant to City Policy, DSMBR will not recommend sanctions at this time. However, please be aware that subsequent violations within a rolling two year period will result in recommendation for the following sanctions as applicable:

2<sup>nd</sup> Violation: Probation for a period of **(6 months)**

3<sup>rd</sup> Violation: Suspension for a period of **(up to 24 months)**

4<sup>th</sup> Violation: Debarment for a period of **(up to 5 years)**

In order to dispute the above described finding of violations, you must submit a written request for an appeal to the Director of DSMR at P.O. Box 1088, Austin, Texas 78767 within 4 days of your receipt of this letter.

If you have any questions concerning the MBE/WBE Procurement Program's Rules and Procedures, please contact \_\_\_\_\_ at (512) 974-7600.

Sincerely,

Elaine Carter  
Assistant Director,  
Department of Small & Minority Business Resources

cc: \_\_\_\_\_, Project Manager- Public Works  
File

**APPENDIX F**  
**MBE/WBE PROGRAM EVALUATION FORM**





## Department of Small Minority Business Resource Evaluation



Please take a few minutes to provide us feedback, so that we may serve you better.

### MBE/WBE Procurement Program

Date: March 25, 2009  
AE

Your Name (optional): \_\_\_\_\_  
\_\_\_\_\_

Please check the box that describes you.

- I am involved in the procurement process
- I monitor contracts
- I do not have anything to do with Procurements

Rate this class by using the following scale and darkening the circle.

Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Does Not Apply
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←—————→

#### How well did we meet the class objectives?

- |  |   |   |   |   |   |   |
|--|---|---|---|---|---|---|
| 1. This information was useful in understanding the MBE/WBE program as it relates to procurements                  | ○ | ○ | ○ | ○ | ○ | ○ |
| 2. The information presented will help me better understand my role in defining MBE/WBE Procurement opportunities. | ○ | ○ | ○ | ○ | ○ | ○ |

#### How successful was your learning experience?

- |   |   |   |   |   |   |   |
|---|---|---|---|---|---|---|
| 3. The information was educational.                 | ○ | ○ | ○ | ○ | ○ | ○ |
| 4. Presenters responded well to questions.          | ○ | ○ | ○ | ○ | ○ | ○ |
| 5. Presenters covered the material clearly.         | ○ | ○ | ○ | ○ | ○ | ○ |
| 6. I am satisfied with the quality of this session. | ○ | ○ | ○ | ○ | ○ | ○ |

What was the topic in the class of most interest to you?

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What could be improved about this class session?

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What other classes would you like to see SMBR present in the future?

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How did you learn about this class?

<b>SMBR Fax – Email – Website – Staff</b>	<b>Other:</b>
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