



City of Saint Paul

HREEEO

Human Rights & Equal Economic Opportunity

CERTIFICATION

FRAUD

CITY OF ST. PAUL - CERT

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MOST COMMON CERTIFICATION FRAUD SCHEMES

- Fronts
- Pass-Through
- Key Issues:
 - How much control does the prime exert over the certified firm?
 - Is the certified firm independent?
 - Is the certified firm actually performing work on the project or simply receiving a percentage “fee”?
 - What is the added value of the certified firms participation?

WHAT IS A FRONT COMPANY?

The front company scheme involves a fraudulent certified firm that is set up as front for a non-certified firm. The sham firm appears on paper to be certified and independent. But in reality, it is operated and controlled entirely by the non-certified firm. The sham firm will typically be paid a small fee for the sake of appearances, but the majority of the project's proceeds go to the non-certified firm that actually performs the work.

WHAT IS A PASS-THROUGH?

The pass-through cases can involve a legitimate certified firm that acts as the middle man so that a contractor can obtain certification participation on a project. The certified firm then “passes through” the majority of the payment it receives from the prime contractor to the non-certified firms that actually perform the work.

The certified firm may perform some work, but it is not serving in the same capacity as the non-DBE or non-CERT contractor would under similar circumstances. In other words, it is not serving a “Commercially useful function”

HOW FRAUD CAN OCCUR ON A JOB

- Certified firm acts as a front company for non-certified business
 - Non-certified firm actually performs work certified firm represents
 - Certified firm temporarily places non-certified firms “workers” on payroll
 - Certified firm bills for work
 - Certified firm receives fee from non-certified firm for acting as pass-through

HOW THE CITY DETECTS CERTIFICATION FRAUD

- Audits
- Field investigations
- On-site interviews

WHAT IS A COMMERCIALY USEFUL FUNCTION?

Performs a commercially useful function when:

- Executing a distinct element of the contract work including supplying of goods/services
- Performing, managing, or supervising the work including supplying of goods/services
- Performing work that is normal for the firm's business service and functions
- Is responsible, with respect to products, inventories, materials and supplies required for the subcontract, for negotiating price, determining quality and quantity, ordering, installing (if applicable), and paying for the material
- Not subcontracting a portion of the work greater than expected by industry practices

Does NOT perform a commercially useful function if:

- An extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of CERT participation
- Not being used to perform the work as stipulated in the bid
- No longer used to provide goods/services listed in initial bid response

INVESTIGATION

Rejecting a SBE, MBE, or WBE as being unqualified must be based on a thorough investigation of their capabilities and sound reason for rejecting such entity must be articulation. Each CERT certified SBE, MBE, and WBE is under continued obligation to report to the Director any change in circumstances that may affect its standing as a CERT certified business

LOSS OF CERT CERTIFICATION

The City of St. Paul may deny a pending application, terminate an existing certification, or investigate an application and/or certification at any time, whichever the case may be, in the event that:

- A certified SBE, MBE, or WBE experienced a change in circumstances that affected its standing as a CERT certified business in such a way that the business no longer meets the requirements of its respective certification; or
- An applicant or certified SBE, MBE, or WBE made a material misstatement of fact in its application or any new information is discovered or submitted in regards to its application

ON-SITE

- On-site reviews are most effective means of confirming representations that:
 - Certified firm owner controls firm for each NAICS code requested
 - The firm operates independently

CERT CERTIFICATION APPLICATION PROCESSING

- Ownership Review
- Affiliation
- Control (Management) Review
- Onsite Review
- Final Decision

COMMERCIALLY USEFUL FUNCTION

KEY ISSUES

Management

- Does the M/W/DBE manage and supervise its work with its own managers and superintendents, including:
 - Negotiating contracts;
 - Scheduling the work;
 - Ordering equipment and materials;
 - Preparing and submitting paychecks/certified payrolls;
 - Hiring and firing workers

Supervision

- Does the M/W/DBE supervise daily operations?
- Does the M/W/DBE have a full time, skilled and knowledgeable superintendent on-site?
- Is the superintendent employed by and paid wages by the M/W/DBE ?
- Is the superintendent acting independently of the prime contractor?
- Note: Mere performance of administrative duties is not considered supervision of daily operations.

Labor

- Did the M/W/DBE perform the work with its own employees?
- Did the M/W/DBE use the workforce of the prime contractor or any non-M/W/DBE company?
- Did the M/W/DBE subcontract any of its work to a non-M/W/DBE?
- Did the M/W/DBE utilize employees or former employees of the prime contractor?

Equipment

- Did the M/W/DBE utilize its own equipment, materials, and supplies to perform the work?
- Did the M/W/DBE rent/lease equipment from the prime contractor or any non-M/W/DBE ?
Does the equipment have the M/W/DBE's markings or signs?
- Is the operator of the leased equipment the DBE's employee?
- Did the M/W/DBE pay for the materials and supplies?