



Austin City Council

Mayor
Will Wynn

Mayor Pro Tem
Betty Dunkerley

Council Members
Mike Martinez
Jennifer Kim
Lee Leffingwell
Brewster McCracken
Sheryl Cole

City Auditor
Stephen L. Morgan

Deputy City Auditor
Taylor Dudley

Audit Report

**SMALL AND MINORITY BUSINESS
RESOURCES DEPARTMENT**

February 27, 2007

**Office of the City Auditor
Austin, Texas**

Audit Team

Niki Raggi, CGAP
Henry Katumwa
Olga Ovcharenko
Glyn Rogers, CFE

Assistant City Auditor

Corrie Stokes, CIA, CGAP

Additional Contributors

UT McCombs School of Business Student Team

Timothy Davis
Garson Li
Zohaib UIHaq

A full copy of this report is available for download at our website:
<http://www.ci.austin.tx.us/auditor/reports>. You may also contact our office by email at
oca_auditor@ci.austin.tx.us.
Please request Audit No. AU06107.

OCA maintains an inventory of past audit report copies and we encourage you to return any unwanted hardcopy reports to our office to help us save on printing costs. Please mail to: P. O. Box 1088, Austin, Texas 78767-8808.

Alternative formats are available upon request.
Please call (512) 974-2805 or Relay Texas #711.



Printed on recycled paper



City of Austin

Office of the City Auditor



301 W. 2nd Street, Suite 2130
P.O. Box 1088
Austin, Texas 78767-8808
(512) 974-2805, Fax: (512) 974-2078
email: oca_auditor@ci.austin.tx.us
website: <http://www.ci.austin.tx.us/auditor>

Date: February 27, 2007

To: Mayor and Council

From: Stephen L. Morgan, City Auditor

Subject: Audit of the Small and Minority Business Resources (SMBR) Department

I am pleased to present this audit report on the department of Small and Minority Business Resources (SMBR). The purpose of this audit was to determine SMBR's performance in the areas of certification, contract monitoring and program enforcement, and performance reporting.

In our audit we found problems in the area of certification, specifically as it relates to the accuracy of data on certified firms maintained by the certification agency that processes certification of Minority-Owned Business Enterprise (MBE) and Women-Owned Business Enterprise (WBE) for the City of Austin. We also found that SMBR's oversight of the contract with the certification agency was weak.

Additionally, while SMBR has made progress in monitoring MBE and WBE subcontractors' participation in City contracts, further improvements are needed to ensure that firms participating in the program meet program rules. Furthermore, SMBR does not have solid performance information in key areas, such as contract monitoring and program enforcement, and SMBR lacks the capability to access information designed to evaluate its operational performance.

We have issued thirteen recommendations aimed at correcting existing problems in the maintenance of certified vendors' records; improving certification practices; improving monitoring of City contracts; ensuring enforcement of program rules; and improving SMBR's ability to evaluate its performance and program effectiveness.

We appreciate the cooperation and assistance we received from City Management and the staff in the Small and Minority Business Resource Department during this audit.

COUNCIL SUMMARY

This report presents the results of audit report on the department of Small and Minority Business Resources (SMBR). The purpose of this audit was to review SMBR's performances in the areas of certification, contract monitoring and program enforcement, and performance reporting.

We found problems in the area of certification, specifically as it relates to the accuracy of data on certified firms maintained by the certification agency that processes certification of Minority-Owned Business Enterprise (MBE) and Women-Owned Business Enterprise (WBE) for the City of Austin. Furthermore, SMBR's oversight of the contract with the certification agency was weak and we found problems with the completeness of documentation of certification eligibility maintained by the agency.

Once Council awards contracts with participation goals, SMBR monitors MBE and WBE participation during the course of the contract. We found that while SMBR has made progress in monitoring MBE and WBE subcontractors' participation in City contracts. However, further improvements are needed to ensure that contracts are monitored consistently and effectively.

Collecting comprehensive performance information in key areas of operations is crucial to evaluate program performance and effectiveness. While SMBR tracks useful performance information for its certification activity, SMBR does not track comprehensive performance information in the areas of contract monitoring and program enforcement. Additionally, SMBR lacks the capability to access information designed to evaluate its operational performance. While SMBR establishes participation goals only on contracts requiring Council approval, our work indicated that SMBR establishes goals on the majority of City contractual spending.

We have issued thirteen recommendations aimed at correcting existing problems in the data for MBE and WBE firms maintained in the City vendor database; improving certification practices; improving monitoring of City contracts; ensuring enforcement of program rules; and improving SMBR's ability in evaluating its performance and program effectiveness. Management concurred with nine recommendations, partially concurred with four recommendations, and has already taken steps to redress some of the problems pointed out by this audit.



**ACTION SUMMARY
SMALL AND MINORITY BUSINESS
RESOURCES DEPARTMENT**



Recommendation Text	Management Concurrence	Proposed Implementation Date
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.	Partially Concur	Ongoing
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.	Concur	Ongoing
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.	Concur	Ongoing
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.	Concur	Ongoing

Recommendation Text	Management Concurrence	Proposed Implementation Date
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 that firms have the capacity to perform under the commodity codes for which they are certified.	Partially Concur	Ongoing
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 Compliance Team. Additionally, the Director of SMBR should coordinate with the Public Works Department to facilitate monitoring of rotation list contracts.	Concur	Ongoing
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; both project specific and rotation list contracts.	Partially Concur	Ongoing
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.	Concur	Ongoing

Recommendation Text	Management Concurrence	Proposed Implementation Date
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.	Partially Concur	Ongoing
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 sub contractors identified as well as correspondence and sanction letters sent to firms.	Concur	Ongoing
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.	Concur	Ongoing
12. In order to ensure that SMBR has timely access to information needed for decision making, the Director of 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	Ongoing
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.	Concur	Ongoing

TABLE OF CONTENTS

BACKGROUND	1
OBJECTIVES, SCOPE, AND METHODOLOGY	3
AUDIT RESULTS	5
Information in the City vendor database on certified firms does not match information in the SCTRCA database	5
SMBR’s monitoring of the contract with SCTRCA does not provide sufficient assurance that the desired goals of the certification activity are achieved and that accurate information is provided to the City	9
The City has not spelled out duties and responsibilities for the maintenance of records of certified firms in the City vendor database, posing a risk to the integrity of the information.....	11
SCTRCA certification practices could be improved to more thoroughly verify and document the eligibility of certified firms	13
SMBR has made progress in monitoring contracts; however, additional improvements are needed to ensure that firms participating in the program meet program rules	15
SMBR tracks useful performance information in the area of certification; however, information tracked for contract monitoring and program enforcement does not provide a clear picture of performance	20
SMBR does not have the capability to create useful and customized reports, so management and stakeholders do not have basic information on the program’s effectiveness.....	22
Appendix A: Management Response	25
Appendix B: Survey of Other Cities MBE/WBE Programs	53
Appendix C: Survey of Austin Minority- and Women-Owned Businesses	59
Exhibits	
Exhibit 1: SMBR Organizational Chart.....	2
Exhibit 2: Certification Process	6
Exhibit 3: Comparison of Certified Firms’ records in SCTRCA and City databases	7
Exhibit 4: SMBR Monitoring Processes.....	15
Exhibit 5: SMBR Certification Measures.....	20
Exhibit 6: SMBR’s Current Contract Monitoring Measures	21

BACKGROUND

The Department of Small and Minority Business Resources (SMBR) was created to administer the MBE/WBE Procurement Ordinance and provide development opportunities and resources to small and minority businesses so that they can have affirmative access to City procurement opportunities.

On February 19, 1987, the Austin City Council passed an ordinance establishing the Minority and Women-Owned Business Enterprise (MBE/WBE) Procurement Program. Since 1994, the SMBR 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, according to the following procurement categories:

- Construction, such as development of City structures (building, parks, etc.)
- Professional services, such as architecture and engineering
- Non-professional services, such as consulting services
- Commodities, such as materials and supplies

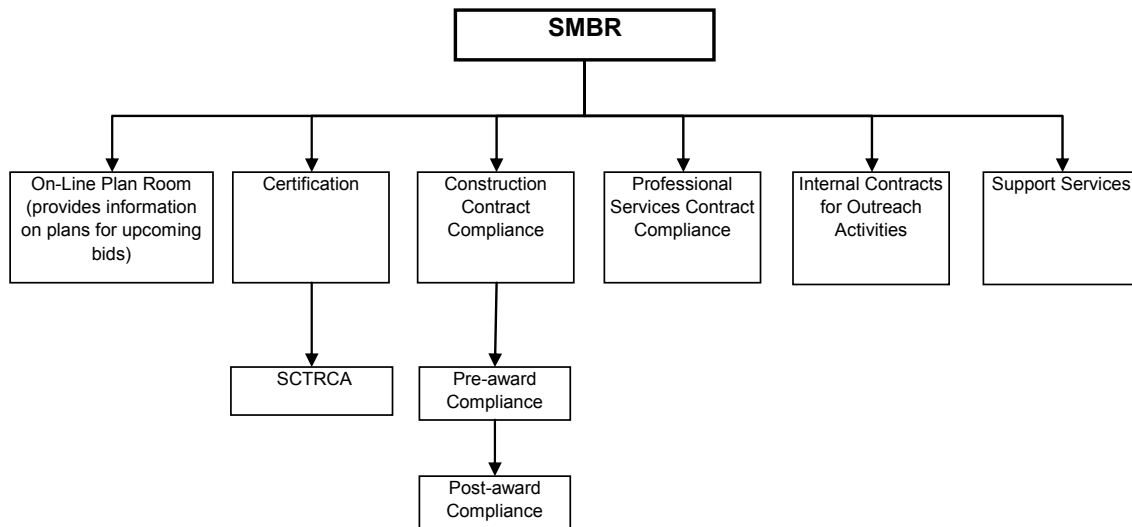
In order to participate in the program as a Minority-Owned Business Enterprise (MBE) or Women-Owned Business Enterprise (WBE), a firm needs to be certified with the City of Austin. A firm's eligibility as MBE or WBE for certification with the City is primarily based on ownership and control, racial and ethnic identity and gender, business size, and business location. The program also utilizes Disadvantage Business Enterprises (DBE) for projects that receive federal funding.

SMBR is responsible for providing outreach activities to both certified and non-certified firms, providing technical support to MBE/WBE businesses through service providers, and increasing the number and capacity of City certified vendors. Furthermore, SMBR is charged with coordinating and supporting the MBE/WBE and Small Business Advisory Committee, and coordinating and providing support functions to the MBE/WBE and Small Business Council Subcommittee. To carry out these activities, in FY06, SMBR had a budget of \$1.7 million and a staff of 20 full time equivalents.

In October 2004, SMBR outsourced its certification activity to South Central Texas Regional Certification Agency (SCTRCA), an external certification agency that certifies MBEs, WBEs, and DBEs. Firms are certified for commodity codes, based on their documented expertise and experience. Commodity codes are used to identify the specific scope of work for which firms are certified. The outsourcing of this function was facilitated through the use of an interlocal cooperation agreement where the City agreed to pay SCTRCA \$50,000 annually for their services. SMBR assigned one staff member as the Certification Liaison between SCTRCA and SMBR.

Currently SMBR has four major functions to carry out their mission. SMBR performs work in the areas of certification; pre-award contracts' compliance; post-award contracts' compliance; and monitors four internal contracts with service providers for outreach activities, skills' development, and educational services. A chart of SMBR's activities is shown in Exhibit 1 below.

**EXHIBIT 1
SMBR Organizational Chart**



SOURCE: SMBR organizational chart, FY06.

SMBR sets MBE/WBE participation goals for procurements that require Council approval and have subcontracting opportunities available. Goals for MBE/WBE participation are established for contracts above Council limit approval (which at the time of our review was \$47,000) and are established on a contract by contract basis, primarily based on the type of contract and the number of City certified MBEs/WBEs available to perform the work on the contract.

Before a contract is awarded by Council, SMBR activities involve the following:

- Setting contract participation goals (or approving “no goal” requests if there are no subcontracting opportunities);
- Developing an availability list that identifies available City certified MBEs/WBEs for the contract work; and
- Reviewing and approving compliance plans submitted by the prospective bidders.

Once a contract is awarded by Council, SMBR activities, involve the following:

- Monitoring contracts (attending progress meetings and conducting phone and/or site audits);
- 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.

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

Our objectives for this audit were to:

1. Determine whether the MBE/WBE program ensures that only eligible (viable and independent) vendors participate in the program (certification related issues and database/information issues).
2. Determine whether SMBR processes include appropriate evaluation of the performance of prime contractors and sub contractors participating in the program, so to ensure compliance with the program (contract monitoring and program enforcement issues). And,
3. Determine whether performance reporting for SMBR is sufficient to assess program performance (performance evaluation issues).

Scope

The audit focused on the administration and performance of the MBE/WBE Procurement Program in the areas of: (1) certification; (2) contract monitoring; and (3) program enforcement. We focused our analysis on the last three years of program administration (FY04-FY06). The majority of our analysis was done on contracts above Council limit approval (\$47,000 at the time of our review). For our analysis of SCTRCA data, we reviewed only records flagged as “City of Austin” in the SCTRCA database, as of October 2006.

Methodology

In order to perform our audit work, we used various methods, including:

- Analyzing SCTRCA’s certification procedures
- Testing a sample of SCTRCA’s certification files for evidence of compliance with SCTRCA certification policies
- Analyzing the universe of records of firms certified as MBE, WBE, and DBE for the City of Austin contained in the SCTRCA database and in the City vendor database for accuracy and completeness of information
- Analyzing SMBR contract monitoring practices
- Testing a sample of SMBR contract files for evidence of compliance with SMBR monitoring policies
- Interviewing staff in SMBR, Purchasing Office, and Public Works
- Analyzing SMBR performance measures in the areas of certification, contract monitoring, and program enforcement
- Analyzing MBE/WBE program reporting system
- Attending MBE and WBE and Small Business Advisory Committee and the MBE and WBE and Small Business Council Subcommittee meetings
- Surveying other cities to find out how they evaluate the success of their minority and women business programs
- Surveying minority and women owned businesses in the Austin community to obtain their perspective on the effectiveness of the MBE/WBE Program administered by SMBR

This audit was conducted in accordance with generally accepted government auditing standards.

AUDIT RESULTS

In our audit of the department of Small and Minority Business Resources (SMBR), we found problems in the area of certification, specifically as it relates to the accuracy of data on certified firms maintained by the certification agency that processes certification of MBE and WBE for the City of Austin. SMBR's oversight of the contract with the certification agency was weak. Additionally, while SMBR has made progress in monitoring MBE and WBE subcontractors' participation in City contracts, further improvements are needed to ensure that firms participating in the program meet program rules. Furthermore, SMBR does not have solid performance information in key areas, such as contract monitoring and program enforcement, and SMBR lacks the capability to access information designed to evaluate its operational performance.

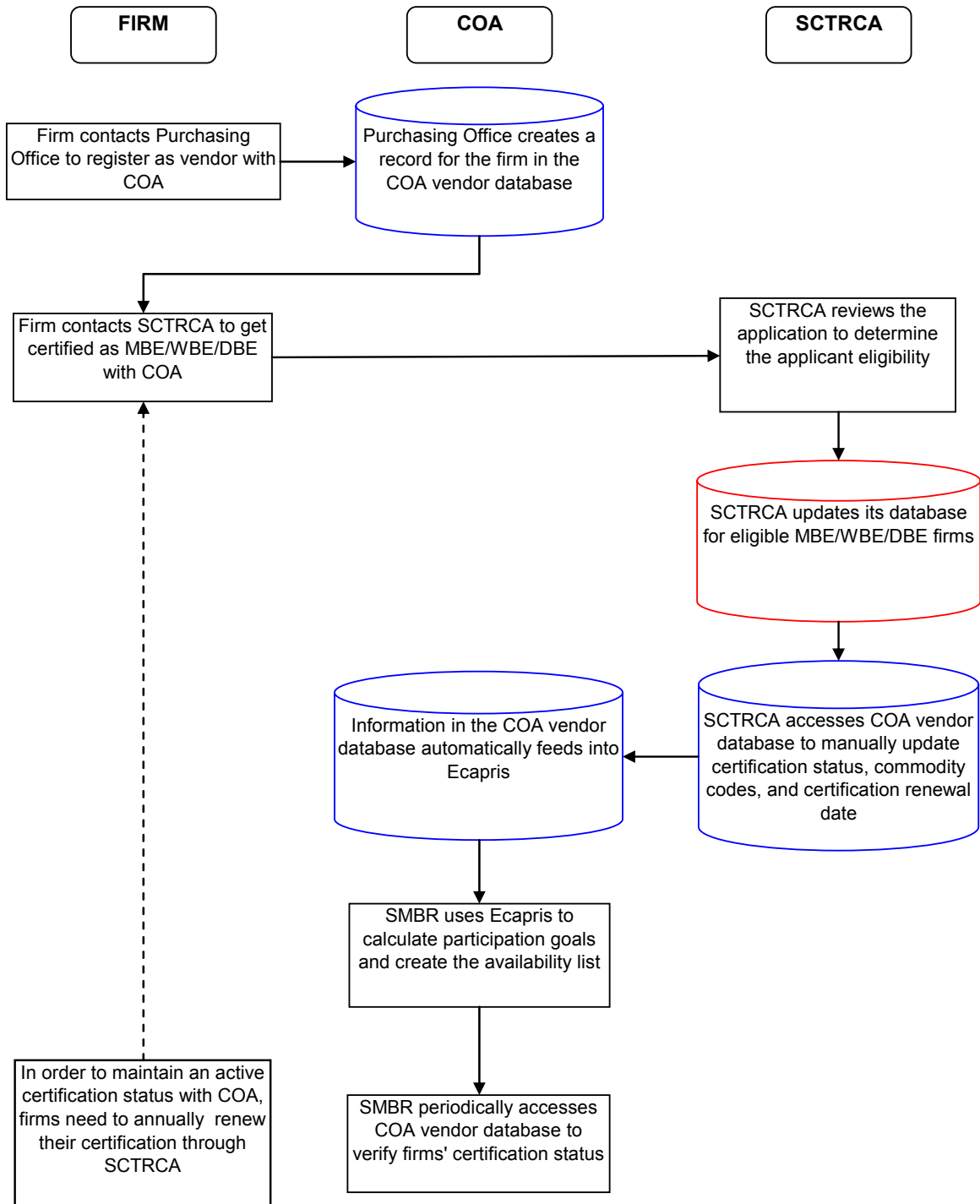
Certification

Information in the City vendor database on certified firms does not match information in the SCTRCA database.

A description of the certification process that includes responsibilities of the different parties involved in the process, including firms seeking certification; the City of Austin; and South Central Texas Certification Agency (SCTRCA), the agency that processes certification for the City of Austin, is shown in Exhibit 2 on the following page.

The City vendor database contains information regarding the certification status of MBE, WBE, and DBE firms certified to conduct business with the City of Austin. At the time of our review, the City vendor database was not regularly updated to reflect the information contained in the SCTRCA database. The SCTRCA database and the City vendor database both contain information about the certification status of firms. Once a firm is certified by SCTRCA, such information should be promptly reflected in the City vendor database. The City vendor database serves as a source of information for SMBR to identify the firms that are eligible for the City MBE/WBE procurement program.

EXHIBIT 2 Certification Process



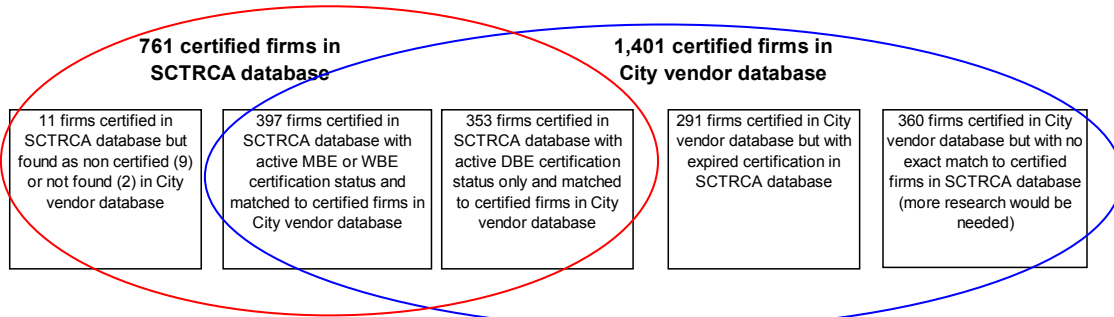
SOURCE: OCA analysis of certification process, October 2006.

Review of the universe of data contained in the two databases, indicated that the information contained in the City vendor database differs from the information contained in SCTRCA database. As of October 2006, the SCTRCA database showed 761 firms certified as MBE, WBE, or DBE for the City of Austin, and the City vendor database showed 1,401 firms as being certified. See Exhibit 3 below for a schematic comparison of the number of certified firms recorded in each of the two databases.

Of the 761 active certified firms in the SCTRCA database, 750 were also in the City database (397 firms and 353 firms; see Exhibit 3). The remaining 11 firms are the result of discrepancies between the databases, including certified firms being listed in the SCTRCA database but not in the City vendor database and vice versa. Specifically:

- The City vendor database has no records for two firms listed in the SCTRCA database as being certified for Austin (these two firms are not registered with the City); and
- The City vendor database lists nine firms as not certified that are certified for Austin according to the SCTRCA database.

EXHIBIT 3
Comparison of Certified Firms' Records in
the SCTRCA Database to the City Vendor Database



SOURCE: OCA analysis of City vendor database and SCTRCA database, October 2006.

It should be noted that for the 353 firms certified as DBEs in the SCTRCA database, 327 of these firms also have an expired MBE or WBE certification. The DBE certification is a federal designation that does not have to be renewed annually. However, if a firm certified as a DBE also has an MBE or WBE certification, they have to renew this certification annually in order to maintain their MBE/WBE active certification status with the City of Austin.

Additionally, 291 firms that are coded as being certified in the City vendor database had an expired certification in the SCTRCA database. The remaining 360 records refer to instances of certified firms' records in the City database for which we could not find an exact match in the SCTRCA database. For example, one of these records is listed as 'Hurricane Office Supply' in the City database and as 'P.D. Morrison Enterprises' in SCTRCA database. More research would be needed to manually match the 360 records to the SCTRCA database.

Because we noted issues with data in the SCTRCA database, for the expired firms we reviewed a sample of certification files to confirm the firms' certification status. Out of 51 certification files reviewed, we confirmed that for 42 MBE or WBE firms (82 percent of the sampled files) certification had expired.

According to management there are a number of firms that were not captured in our analysis of SCTRCA records. A preliminary review of records provided by SCTRCA in January 2007, after the end of our audit, indicates that there may be as many as 142 additional firms certified in SCTRCA records. Of these, 121 firms have an active MBE, WBE, or DBE certification status in the SCTRCA database. This discrepancy represents records that were not included in the initial data we obtained from SCTRCA because they were not flagged as "City of Austin" records in the SCTRCA database. We did not include these additional firms in the analysis shown in Exhibit 3 because this additional data was provided to us after the end of our audit work and represents a snapshot of the SCTRCA database taken three months after our analysis.

In order to maintain their MBE or WBE certification status, firms have to renew their certification annually. Due to data limitations concerning certification dates, we could not identify whether firms participated in City contracts while not being certified during the scope of our audit. Both the SCTRCA database and the City vendor database list only the latest certification date and do not list prior certification dates for each certified firm.

The SCTRCA database does not automatically interface with the City's database; instead SCTRCA has access to the City database to manually update certain fields for certified firm, such as the certification status, commodity codes for which the firm is certified, and the certification renewal date. However, in the recent past, SCTRCA has not been systematically updating the certification status in the City database for those firms with expired certification. While SMBR was aware of issues with the databases, neither SMBR nor SCTRCA reconciled the two databases.

Recently, SMBR became aware of the pervasiveness of the databases' issue discovered through our audit and, in order to start addressing them, sent out a renewal letter, in October 2006, to 765 firms that were certified according to the City database but whose certification status was lapsed, expired, or non-responsive in the SCTRCA database.

Problems with the accuracy of information in the City database also result from the absence of a clear understanding of roles and responsibilities among the parties involved as well as from poor SMBR monitoring practices which will be discussed more in depth in the following sections of this report.

Recommendations

01. 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.

MANAGEMENT RESPONSE: Partially Agree

DSMBR agrees that inaccuracies in the City's database should be corrected. However, DSMBR cannot concur with the extent of the problem as described in the Audit Report because the following variables make it difficult to know the problem's true extent:

1. The database provided by SCTRCA was missing several key fields, which affected how firms' status was categorized.
2. Information in SCTRCA's paper files did not always match SCTRCA's database, calling into question the accuracy of the electronic data provided to the Audit team.
3. Unfamiliarity with Program rules by the Audit team and lack of certain documentation in SCTRCA's files inflated the number of "expired" firms reported.
4. The City's database is constantly shifting as vendors are certified, recertified after a lapse, or decertified so a single-day snapshot is not comprehensive enough to show the extent of the problem.
5. The City launched a major conversion to a new financial system shortly after the Audit team took its snapshot, so the Report did not take into consideration the purge of obsolete, inaccurate, and misplaced data that occurred during the conversion.

Many of the concerns have been addressed in the switchover from the AFS-2 financial system to the AFS-3 system (AIMS). In addition, DSMBR has resumed the certification function and is (1) evaluating each vendor file that was reported to be "inaccurate" to ensure accuracy; and (2) reviewing all other vendor files to ensure complete and accurate file documentation.

02. 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.

MANAGEMENT RESPONSE: Agree

As part of resuming the certification function, DSMBR is conducting an organizational assessment to effectively address data management issues. One aspect of this is the development of a new position for a Business Systems Analyst who will be responsible for ensuring data will be input properly, consistently, and in synchronization with Purchasing, Public Works and other user departments.

SMBR's monitoring of the contract with SCTRCA does not provide sufficient assurance that the desired goals of the certification activity are achieved and that accurate information is provided to the City.

While SMBR receives monthly reports from SCTRCA summarizing certification activities performed, SMBR does not review these reports to ensure that the information is accurate and complete.

SMBR performs limited monitoring of the contract with SCTRCA. In October 2004, SMBR outsourced its certification activity to SCTRCA. Oversight and monitoring of the contract with SCTRCA are mechanisms SMBR has to ensure that the certification

activity is achieving its desired outcomes. Through oversight and monitoring, SMBR can make sure that only eligible firms are certified and that SCTRCA is complying with the agreed upon certification terms. However, SMBR performs insufficient monitoring of the contract with SCTRCA. Currently, monitoring of the SCTRCA contract is restricted to receiving monthly reports on SCTRCA activities for the City of Austin; however, SMBR does not review these reports to ensure that accurate certification data is reported to the City. Additionally, while the agreement with SCTRCA includes an audit clause that allows SMBR to review, inspect, and audit all records and certification documents maintained by SCTRCA, SMBR has not performed any type of audit or review activity. SMBR involvement is limited to reviewing appeals of SCTRCA certification decisions and reviewing complaints raised by firms seeking certification.

Without sufficient monitoring of the outsourced certification activity, SMBR does not have assurance that certification performance data reported to stakeholders is accurate. For example, the monthly report submitted to SMBR by SCTRCA includes, among other information, the total number of certifications for the City of Austin done by SCTRCA. The number of certified firms reported by SCTRCA in September 2006 was 695 and our analysis of SCTRCA database showed a lower number of firms certified for the City of Austin. SCTRCA reported the number of firms certified in their database, whether they were certified for the City of Austin or not, rather than the number of firms certified for Austin. Without accurate historical certification data, SMBR may not be able to develop better policies and procedures for the certification activity.

In our review of the City contract with SCTRCA, we observed that there are no documented certification performance standards for SCTRCA other than its duty of processing certifications for the City of Austin. Insufficient monitoring of the contract with SCTRCA may result from the lack of documented guidelines provided to SMBR staff for monitoring the SCTRCA contract. Additionally, we observed that the job description of the SMBR staff responsible for monitoring the contract with the certification agency does not specifically reflect the new monitoring role resulting from outsourcing the certification activity.

Recommendation

03. 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.

MANAGEMENT RESPONSE: Agree

As part of resuming the certification function, DSMBR has created a new management-level position that will be responsible for overseeing all aspects of the certification function, including monitoring. The expectations and roles of this position will be formally documented. Additional Department changes are also being considered.

The City has not spelled out duties and responsibilities for the maintenance of records of certified firms in the City vendor database, posing a risk to the integrity of the information.

Information on MBE and WBE firms certified for the City of Austin is stored in the City vendor database. Maintenance of certified vendors' records requires cooperation among different parties, including SCTRCA, SMBR, and the Purchasing Office. However, roles and responsibilities pertaining to the maintenance of certified vendors' records have not been documented to address procedures for clarifying access restrictions, updating firms' addresses, and deleting outdated records.

SMBR staff and Purchasing Office staff still have access to make changes to specific fields of certified firms' records contained in the City vendor database; these access rights should have been entirely transferred to SCTRCA. In order to ensure integrity of information regarding certified firms, only the agency tasked with certifying firms should have access to make the necessary changes to firms' certification status. However, both SMBR and Purchasing Office staff still have access to make changes to records of certified firms and neither group was aware of such access capability. At the time of outsourcing certification, SCTRCA was given access to modify, for certified firms, certain fields in the City database, including information about (1) gender, ethnicity, and minority class; (2) minority indicator; (3) commodity code selection; and (4) certification renewal date. However, upon granting access to SCTRCA, access restrictions to other users were not placed on these fields. During our audit, we found that both the Certification Liaison at SMBR and the Purchasing Office staff in charge of the City vendor database could add or drop commodity codes and modify gender or ethnicity information for certified firms' records in the City database.

Without access restrictions to information pertaining to certified firms in the City vendor database, a firm's information may inadvertently be changed or there may be changes made by SMBR or the Purchasing Office without the knowledge of SCTRCA. If it is the desire of SMBR and the Purchasing Office to have someone on staff that has access to modify the information for certified firms, SMBR should have formal written procedures of who has what authority and access to make those changes in the City database and establish notification of such changes to SCTRCA.

Additionally, SMBR lacks a mechanism to ensure that certified firms' addresses get updated in the City database. SCTRCA can maintain only selected fields in the City database; for example, they cannot modify the address field for certified firms. Currently, in order to update their address, certified firms should access the City vendor database online and update their address information; subsequently, firms have also to contact SCTRCA and have their address modified in the SCTRCA database. This duplication creates possibilities of errors and confusion for certified firms about who they should notify in order to change their address. As a result, relevant correspondence from the City or from SCTRCA to the certified firms may be sent to incorrect addresses. For example, as part of this audit, we mailed out survey cards to all the 1,401 certified firms listed in the City vendor database. Of these 1,401 survey cards, 96 cards were returned to

our office as undelivered due to incorrect addresses. Refer to Appendix C for more information on the survey conducted.

SMBR lacks procedures for deleting outdated records for certified firms; as a result, the City vendor database contains duplicate records for eight certified firms, which produces a minor overstatement of the availability of certified firms. The City vendor database serves as a source of information to identify the firms that are eligible for the City’s MBE/WBE procurement program and should reflect the true availability of certified firms. In our review of all records for certified firms contained in the City vendor database (1,401 records), we found that the City database contains identical duplicate records for eight certified firms. The City vendor database contains information on all firms registered to do business with the City and indicates whether a firm is certified as MBE, WBE, or DBE. This database is maintained by the City’s Purchasing Office. However, for certified firms, SCTRCA updates the City vendor database for some information such as the certification status, commodity codes for which the firm is certified, and the certification renewal date.

When a certified firm changes its name or business structure, the old record should be removed from the City database. This process requires coordination among SCTRCA, the Purchasing Office, and SMBR. However, we observed that there are no documented procedures for deleting outdated or duplicate records for certified firms in the City database and none of the parties involved in the process had a clear understanding as to what process should be followed. Since the participation goals established by SMBR are based on the number of certified firms available for the commodity codes listed for a particular contract, if duplicate records for certified firms are not eliminated then the availability of certified firms is overstated and participation goals may be overstated.

Recommendation

04. 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.

MANAGEMENT RESPONSE: Agree
See strategies identified in recommendations number 2 and 3.

SCTRCA certification practices could be improved to more thoroughly verify and document the eligibility of certified firms.

SCTRCA is responsible for certifying firms as MBE, WBE, or DBE for the City of Austin. Verification of certification eligibility performed by SCTRCA should be improved to include review of firms' program violations and complete documentation of certification eligibility. Additionally, SMBR should strengthen monitoring of SCTRCA certification decisions by annually perform site visits on a sample of certified firms.

SMBR and SCTRCA do not have a process to track and share information on violations of program rules by certified firms; as a result this information is not taken into account at the time of recertification by SCTRCA. According to SCTRCA procedures, at the time of recertification, SCTRCA should review information on violations of program rules by certified firms. However, as discussed more in detail later in this report, neither SCTRCA nor SMBR are tracking violations of the MBE/WBE program rules. Currently, when SMBR becomes aware of violations of program rules regarding certified firms working on City projects SMBR looks into the issue but does not systematically document or track this information.

Without a process to track and share certified firms' violations, SCTRCA cannot conduct a full assessment of whether or not a firm should be recertified.

Some of the certification files maintained at SCTRCA do not contain complete support of MBE/WBE certification eligibility, as required by policies. SCTRCA is responsible for certifying firms for the City of Austin as MBE, WBE, or DBE. There are numerous pieces of documentation needed to prove eligibility that need to be reviewed and documented by SCTRCA. Documentation needed includes (1) proof of ownership and control; (2) proof of work experience; (3) financial records, including tax returns (4) proof of ethnicity or gender; and (5) evidence of contracts, references, and licenses (if applicable). Review of a sample of certification files maintained at SCTRCA indicated that not all of the files reviewed contained complete information.

We reviewed a sample of 21 SCTRCA certification files and found that ten (or 47 percent of the files reviewed) were missing proof of ethnicity or gender and five (or 24 percent of the files reviewed) did not have evidence of tax returns. Furthermore, we found that SCTRCA accepts the documents submitted as proof of work experience, such as resumes and invoices from prior jobs, at face value without any type of follow-up or verification to ensure that the information submitted is true and correct.

SCTRCA is aware of issues with the documentation of evidence in the certification files and pointed out that they are planning to undergo a complete review of files to determine whether or not the files contain all the necessary documentation. According to SCTRCA, these problems result from incomplete documentation provided by SMBR at the time of outsourcing as well as from poor documentation maintenance by previous SCTRCA management.

On-site verification of eligibility is performed for a subset of firms. As per SCTRCA policy, site visits are performed on DBE applicants, however this is not a requirement for firms seeking MBE or WBE certification. Site visits for DBEs are mandated by federal regulations. Site visits consist of interviewing the principal officers of the firms, a review of the officers' resumes and work histories, visits to any job site in the area where the applicant is currently performing work, and verification of documents submitted. Currently, 73 percent of the certified firms for the City of Austin have a DBE designation. While site visits are conducted on DBE because it is a federal requirement, they are not conducted for MBE or WBE. By systematically limiting site visits to only those seeking DBE certification, SCTRCA runs the risk of certifying MBE/WBE firms that may not have the capacity of performing under the commodity codes in which they are seeking certification and may not be eligible under the City requirements.

Prior to outsourcing certification activities, SMBR conducted site visits for certification of DBE as well as MBEs and WBEs. Additionally, two of the four cities surveyed during our audit (Houston, Texas and Jacksonville, Florida) conduct site visits on all firms seeking certification. Refer to Appendix B for more information on the survey conducted.

Recommendations

05. 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 that firms have the capacity to perform under the commodity codes for which they are certified.

MANAGEMENT RESPONSE: Partially Agree

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 M/WBE certification.

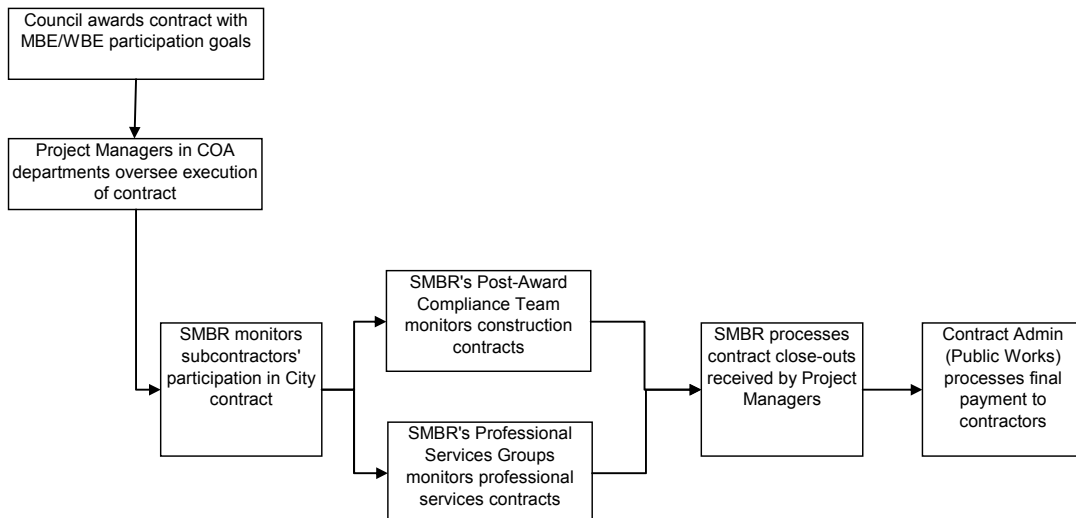
While the Department will conduct site visits as described above to investigate a firm's eligibility for certification, the Department does not make any determination that an eligible firm will have the capacity to perform on any given contract. A firm's capacity is dynamic and must be determined on a contract-by-contract basis after review of a firm's existing workload, staffing levels, equipment availability and remaining bonding capacity (if bonding is necessary). 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.

Contract Monitoring and Program Enforcement

SMBR has made progress in monitoring contracts; however additional improvements are needed to ensure that firms participating in the program meet program rules.

Once Council awards contracts with participation goals, SMBR monitors MBE and WBE participation during the course of the contract. Contract monitoring is key to ensure that prime contractors meet the contracted goals and to ensure that SMBR can timely address issues related to primes' and subcontractors' performance issues. SMBR has made progress in monitoring subcontractors' participation in City contracts; however, SMBR should strengthen its contract monitoring practices to ensure that firms participating in the program meet program rules. A description of SMBR contract monitoring process is shown in Exhibit 4 below.

**EXHIBIT 4
SMBR Monitoring Process**



SOURCE: OCA analysis of SMBR contract monitoring process, October 2006.

SMBR has made progress in the monitoring of construction contracts. According to the City ordinances governing the MBE/WBE procurement program, SMBR should monitor subcontractor participation during the course of the contract. To this end, SMBR has developed internal policies and procedures for monitoring contracts, including guidelines for site and phone audits, substitutions of subcontractors, and review of payments to subcontractors. Additionally, in 2004, SMBR created the Post-Award Compliance Team (PACT). The PACT was created specifically to monitor construction contracts from the moment a contract is awarded until the contract is closed. Prior the creation of the PACT and the development of detailed policies and procedures, monitoring of contracts was inconsistent and weak.

Additional monitoring of construction contracts is needed. The creation of a group dedicated to post-award activities has increased the level of monitoring performed on construction contracts; however, further improvements could be made. PACT members are not required to perform a certain level of monitoring on any given contract; rather, it is up to the staff member to determine which contracts to focus on and the level of monitoring on each of them, including attendance of progress meetings and phone or site audits. Additionally, in reviewing construction contracts files maintained at SMBR we found evidence of ongoing monitoring on only a small portion of contracts sampled. Out of a sample of 17 closed construction contracts among the contracts awarded in the period FY04-06, we found evidence of a site audit for one contract and evidence of attendance of progress meetings on three contracts.

SMBR does not perform enough ongoing monitoring of professional services contracts. For this type of contract, monitoring is typically limited to requests for changes to the compliance plan received from the prime contractors, need for amendments to the contracts, or following-up on complaints received from subcontractors or prime contractors. Essentially, monitoring is triggered by some issue on the contract and there is no ongoing proactive monitoring by SMBR, such as attendance of progress meetings, ongoing review of payments to subcontractors, or phone or site audits. In our review of a sample of 15 open professional services contracts, including both project specific and rotation list contracts, we did not find any documentation of evidence of monitoring procedures.

The emphasis of the professional services team is on pre-award compliance activities and staff seems to be overwhelmed by the level of workload. SMBR staff dedicated to professional services comprises two FTEs that are in charge of professional services contracts for both pre-award and for post-award compliance activities. This includes activities before a contract is awarded, such as setting contract participation goals, developing availability lists, reviewing solicitations to City contracts, and reviewing compliance plans submitted from bidders, as well as activities performed after a contract is awarded by Council, such as reviewing requests for changes to the compliance plan submitted by prime contractors, and processing contract close-outs. Without ongoing monitoring of contracts, SMBR runs the risk of overlooking issues when they arise and becoming aware of issues on contracts when it is too late to fix them. This limits SMBR's ability to properly evaluate the performance of participating professional services firms and to ensure the program's effectiveness.

While SMBR and Public Works have procedures requiring SMBR involvement in contract close-out, we found that SMBR is not consistently involved in this process. According to the City ordinances governing the MBE/WBE procurement program, prior to the contract close-out, SMBR should evaluate the contractors' fulfillment of the contracted goals. The purpose of contract close-out is to ensure that MBE/WBE subcontractors have been paid before the release of the final payment to the prime contractor and is the final opportunity for SMBR to determine actual MBE/WBE participation that was achieved by the prime contractor. SMBR has developed procedures that detail the process of review and approval of contract close-out.

According to Public Works procedure manual, final payment to contractors should not be processed without a close-out form approved by SMBR.

However, SMBR is not systematically involved in the close-out of contracts and this is particularly pervasive for professional services contracts. In our review of a sample of construction contracts awarded in the period FY04-06, final payment was processed without a close-out form approved by SMBR for two out of 14 closed contracts. While we could not perform this test on the professional services contracts sampled, as none of them were closed at the time of review, SMBR staff reported that SMBR is rarely notified of the closing of professional services contracts. Additionally, for professional services rotation list contracts, SMBR can make only a partial evaluation of prime performances at time of close-out. When SMBR does receive a close-out request for a rotation list contract, the request is for one specific assignment. That means that SMBR can review one assignment completed by the prime, but cannot make a full evaluation of performance of the prime in meeting the goals stated in the compliance plan, because there may be more assignments that still need to be completed and for which the prime may or may not meet the goals. Furthermore, this type of contract closes after a long time, making it difficult for SMBR to verify payments made to subcontractors. In our review of a sample of six rotation list contracts, we found that for three contracts SMBR was not able to verify all payments to subcontractors, since too much time had passed and the subcontractors' financial system did not include data prior to a certain year (contracts were awarded in 1998 and assignments closed between 2005 and 2006).

Additionally, we observed weaknesses in SMBR's paper documentation system.

Currently, SMBR does not have controls in place to ensure that contract documentation is complete. Reviewing contract files, we found that some contract information, such as compliance plan or close-out form, was missing from SMBR's files and that some files could not be provided to us in a timely manner or at all.

SMBR does not have guidelines to guide enforcement of program rules and does not have a mechanism in place to track violations and use this information to ensure enforcement of the program.

The ordinance regulating the MBE/WBE Program includes sanctions to be imposed in case of violations of program rules; such sanctions include being fined, barred, suspended, or deemed non-responsive in future City solicitations and contracts for a period up to five years. SMBR is responsible for identifying the violations and recommending sanctions to the Purchasing Office. However, currently SMBR staff lacks a clear set of guidelines to guide them in enforcing program rules and assist them in recommending sanctioning of firms that do not comply with program rules to the Purchasing Office, particularly in cases of repeated violations by the same firm. According to staff in the Purchasing Office, SMBR rarely reports non-complying firms to them and in the last few years only one firm has been debarred for not complying with the MBE/WBE procurement program rules. Additionally, in our review of a sample of 17 closed construction contracts, we found that the contracted goals were not met for three contracts; however, we did not find any documentation explaining why the goals were not met or how SMBR addressed the issue with the prime contractors.

While the ordinances prescribe sanctions for firms that repeatedly fail to comply with the program, SMBR does not have a mechanism in place to track breaches of program rules or sanctions imposed. Currently, when a violation occurs, SMBR staff sends a violation letter to the firm, indicating the rule breached and the possible consequences resulting from it. Subsequently, SMBR files the letter and relevant correspondence in the contract file maintained at SMBR. However, this information is not captured anywhere other than in the contract file; as a result, when SMBR sends out a violation letter, they would not know if the firm had previous violations on other City contracts.

By not enforcing sanctions against firms that violate program rules, the MBE/WBE procurement program is less effective, because prime contractors with repeated violations may be allowed to continue participating in City contracts. Additionally, this may negatively impact the public perception of the program, as subcontractors may see that prime contractors that violate the program continue to participate in City contracts without being penalized. Indeed, our survey of women- and minority-owned business in the Austin area had several comments pointing out SMBR's poor enforcement of program rules and dissatisfaction with the fact that prime contractors are allowed to fail to honor subcontracting commitments with no consequences.

Recommendations

06. 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 Compliance Team. Additionally, the Director of SMBR should coordinate with the Public Works Department to facilitate monitoring of rotation list contracts.

MANAGEMENT RESPONSE: Agree

DSMBR will conduct a comprehensive review of monitoring procedures and determine the appropriate group within the Department to monitor professional service projects. DSMBR will coordinate with Public Works to facilitate monitoring of rotation list contracts.

07. 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; both project specific and rotation list contracts.

MANAGEMENT RESPONSE: Partially Agree

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. DSMBR will improve its service and will coordinate with the Public Works Department to further define procedures for addressing contract closeout.

08. 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.

MANAGEMENT RESPONSE: Agree

DSMBR concurs, but notes that a check list is currently used at contract closeout. DSMBR will vest the responsibility of implementing record management controls with the newly created position of Manager of Certification and Administration.

09. 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.

MANAGEMENT RESPONSE: Partially Agree

The MBE/WBE Compliance Plan is explicitly made part of the construction contract between the City and the prime contractor so that failure to meet the commitments in the Compliance Plan could be deemed a breach of contract, subject to the same administrative and judicial mechanisms as any other contractual issue. Nonetheless, DSMBR agrees that the progress it has already made in monitoring 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. DSMBR has begun discussions with the Law Department and Purchasing Office to more fully address situations in which sanctions may be appropriate.

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 sub contractors identified as well as correspondence and sanction letters sent to firms.

MANAGEMENT RESPONSE: Agree

DSMBR will work with Public Works and other project management departments to develop a comprehensive system to track violations of contract covenants and to discuss appropriate sanctions.

Performance Reporting

SMBR tracks useful performance information in the area of certification; however, information tracked for contract monitoring and program enforcement does not provide a clear picture of performance.

Collecting comprehensive performance information in key areas of operations is crucial to evaluate program performance and effectiveness. While SMBR tracks useful performance information for its certification activity, SMBR does not track comprehensive performance information in the areas of contract monitoring and program enforcement.

For the certification activity, SMBR tracks good measures that provide a comprehensive picture of the activity; however, SMBR should strengthen the review of data reported. Measures tracked reflect demand, output, results and efficiency of the certification activity. See Exhibit 5 on the following page for more detailed information on the certification measures tracked. However the data for these measures is reported to SMBR by SCTRCA (the certification agency) and SMBR does not perform any verification to ensure that the reported information is correct. Reviewing performance measures for the period FY04-06, we found some inaccuracies in the performance as reported by SCTRCA, including:

- In FY05 the number of certifications approved was higher than the number of new and recertification applications received;
- SCTRCA reports more firms than are actually certified for Austin (as discussed earlier in this report).

**EXHIBIT 5
SMBR Certification Measures**

Measure	FY2005 (Actual)	COA Measure Type
Number of new and recertification applications received	684	Demand
Number of application requests	638	Demand
Number of applications denied	34	Output
Number of new and recertification applications approved by SMBR	773	Output
Percent of applications processed within 60 days	99	Result
Turn around time for recertification applications (in days)	10	Result
Turnaround time for new certifications (in days)	13	Result
Number of Certification errors	0	Result
Percentage of appealed certification decisions upheld by the SMBR Director	100	Result
Percentage of appealed certification decisions upheld by the City Manager	100	Result
Percent of businesses certified that meet eligibility requirements	100	Result
Cost per application processed	163	Efficiency

SOURCE: COA performance measures database, October 2006.

SMBR tracks few measures in the areas of contract monitoring and program enforcement, limiting SMBR management’s ability to evaluate its performance and effectiveness in these areas. In order to facilitate the process of decision making, SMBR should set measurable targets for accomplishments in key areas and develop and report indicators that measure its progress in achieving those targets. However, currently SMBR tracks and reports limited performance measures and targets in the area of contract monitoring. Contract monitoring activities are primarily aimed at monitoring prime contractors’ compliance with contracted participation goals. Additionally, although SMBR has some limited contract monitoring performance measures for construction contracts, no data has been reported on these measures in the scope period of our audit, FY04-06 (see Exhibit 6 on the following page for a complete list of contract monitoring measures currently tracked by SMBR). For both professional services and construction contracts, SMBR lacks measures that track outputs and results. SMBR could track these by using measures such as:

- Number of contracts monitored and number of contracts with close-out by SMBR (output measures); and
- Percentage of contracts meeting contracted goals at close-out, for both construction and professional services contracts (result measures).

**EXHIBIT 6
SMBR’s Current Contract Monitoring Measures**

Professional Services	FY05 (Actual)	COA Measure Type	Construction	COA Measure Type
Number of professional service contracts that require monitoring	357	Demand	Percentage of discovered compliance discrepancies resolved - <i>no data reported in FY04-06</i>	Result
Number of professional service contracts monitored	43	Output	Percentage of payment issues resolved - <i>no data reported in FY04-06</i>	Result
Cost per professional service contract monitored	\$4,594	Efficiency	Number of audits performed- <i>no data reported in FY04-06</i>	Output
			Cost per audit performed - <i>no data reported in FY04-06</i>	Efficiency

SOURCE: COA performance measures database, October 2006.

Additionally, SMBR does not have any performance measures in the area of program enforcement. Enforcement activities are aimed at ensuring compliance with program rules. As discussed earlier in this report, SMBR is responsible for identifying violations and referring them to the Purchasing Office. However, SMBR currently does not track information such as the number of violations identified, number of primes with violations, or number of violations referred to the Purchasing Office.

SMBR has not performed a thorough evaluation of its current performance measures to determine if they are still relevant and provide useful information for decision-making; however, SMBR management has indicated that SMBR intends to undergo such review soon and has assigned a team to carry out this task. Without collecting comprehensive performance measures in its key areas of operation, SMBR does not have sufficient information to evaluate its performance and effectiveness.

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.

MANAGEMENT RESPONSE: Agree

DSMBR concurs generally with this recommendation and has implemented this through a comprehensive management review and reorganization. Additional resources may be needed to more fully implement this recommendation.

SMBR does not have the capability to create useful and customized reports, so management and stakeholders do not have basic information on the program's effectiveness.

Decision making should be based on relevant information about the program's performance. SMBR lacks the capability to access information designed to evaluate its operational performance; however, some of this problem may be mitigated by new report capabilities introduced with the City's new financial system (AIMS). While reports detailing SMBR's coverage are not available, our work indicated that SMBR establishes participation goals on the majority of City contractual spending.

SMBR lacks the capability to access information designed to evaluate operational performance. In order to evaluate its operational performance and to make informed decision-making, SMBR should have relevant information about its performance and should be able to share such information with its stakeholders, including the MBE and WBE and Small Business Advisory Committee and the MBE and WBE and Small Business Council Subcommittee. Data on usage of MBE and WBE by the City is contained in several information systems, including the vendor database, eCapris, and the City financial system. In our review, we found that SMBR does not have the capability to create useful, customized reports from these systems for their own analysis or for analysis by stakeholders. Rather, SMBR depends on the expertise of staff in the City's Purchasing Office. SMBR regularly obtains standard reports prepared by the Purchasing Office on participation goals by procurement categories. These reports include quarterly reports that show the percent and amount of contracts awarded to MBE and WBE firms for City purchases below \$5,000 and for competitive purchases above \$500. However, if SMBR or a stakeholder wanted more customized information, such as the breakdown of purchases above \$2 million and below \$2 million to identify which contracts have the highest level of MBE and WBE participation, SMBR cannot provide the information.

Currently, when SMBR identifies the need for customized information or receives a request for such information, they request the information from the City's Purchasing Office. The Purchasing Office can provide this information, but has to prioritize the requests received with other workload. Indeed, providing this type of high quality information involves several information systems and complex queries. SMBR does not have staff with the knowledge to perform such analysis. Without the capability to

generate customized reports or access existing reports, SMBR lacks basic information to evaluate its program effectiveness and support development of policy alternatives.

Because data on City purchases that involve SMBR efforts cannot be electronically disaggregated from all City purchases, SMBR's historic impact on overall MBE and WBE participation cannot be easily assessed. In order to assess its effectiveness in increasing MBE and WBE participation in the City procurement activities, SMBR should have information that directly reflect the outcomes of its activities. Reporting on City purchases and MBE and WBE participation is compiled by the Purchasing Office for all purchases below \$5,000 and all competitive purchases above \$500. However, SMBR activities are primarily focused on purchases requiring Council action, which at the time of our review included purchases above \$47,000. In the City financial system in place until October 2006, AFS2, these purchases could not be separated from non-Council approved transactions for reporting or analysis purposes. These purchases could only be identified manually by going through transactions one by one. AFS2 could be queried for information based on amounts, but, since the system was not tracking purchases that required Council action, these customized reports did not capture purchases below the Council approval limit that for some reasons went through Council for approval. The Purchasing Office has indicated that the new financial system that was introduced in October 2006 has the capability to flag Council approved transactions. SMBR should take advantage of this new capability and regularly request and review reports on MBE and WBE participation on City purchases that required Council approval, as these are the purchases on which SMBR establishes participation goals.

While reports detailing SMBR's coverage are not available, our work indicated that SMBR establishes participation goals on the majority of City contractual spending. SMBR establishes goals on contracts requiring Council approval. In the scope period of our review, Council approval limit was set for contracts above \$45,000 in FY04, \$46,000 in FY05, and \$47,000 in FY06. While this includes only a limited subset of all the contracts that the City engages in, these contracts capture the majority of dollars spent by the City.

We reviewed all central purchase order contracts awarded in the period January 2004-September 2006 and found that approximately 16 percent of them were above \$47,000; this portion represents 92 percent of the total contracted amount (corresponding to \$554.7 million compared to a total amount of \$604.6 million).

Additionally, while many of the contracts requiring Council approval are approved as "no goals" by SMBR or are exempted by ordinance, SMBR established goals on the majority of contractual spending. In establishing goals, SMBR looks for subcontracting opportunities; when these cannot be identified, SMBR approves contracts as "no goals". This is typically the case for commodity contracts and non-professional services contracts. The ordinances governing the MBE/WBE procurement program also establish eight exceptions to what is considered a contract for the purpose of establishing goals (examples of exceptions include loan transactions, lease and franchise agreements, and interlocal agreements). We reviewed a sample of 206 contracts above \$47,000 awarded

in the period FY04-06, and found that 18 percent were approved as “no goals” by SMBR (corresponding to 8 percent of the contracted amount sampled); 46 percent did not have participation goals as they were exceptions provided by the ordinance (corresponding to 12 percent of the contracted amount sampled); and 35 percent had participation goals established by SMBR (corresponding to 80 percent of the contracted amount sampled).

It should be noted that our analysis captures contracts above Council approval limit and does not capture those contracts below the established amount that for particular reasons were submitted for Council action.

Recommendation

12. In order to ensure that SMBR has timely access to information needed for decision making, the Director of 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.

MANAGEMENT RESPONSE: Agree

DSMBR will work within the structure of the CTM and the Purchasing Department to ensure that trained DSMBR employees have the knowledge and the authority to produce the necessary reports to meet the Department’s needs. In addition, the Department is adding a Business Systems Analyst to manage the departmental data and technology needs.

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.

MANAGEMENT RESPONSE: Agree

DSMBR concurs that it is necessary to refine the existing Performance Management System and existing monitoring to improve its effectiveness. Through DSMBR’s comprehensive management organizational review DSMBR is implementing this recommendation.

**APPENDIX A
MANAGEMENT RESPONSE**



MEMORANDUM

TO: Steve Morgan, City Auditor
FROM: Rudy Garza, Assistant City Manager
DATE: February 23, 2007
SUBJECT: Management's Response to Audit Report

This document is submitted in response to the SMBR Audit Report ("Audit Report") prepared by the Office of the City Auditor. This document summarizes management's response to the Audit Report's recommendations. Management's specific response and action plan on each recommendation can be found on Attachment 1.

I appreciate the opportunity that you provided for the Department of Small and Minority Business Resources ("DSMBR" or "The Department") to engage in a dialogue with you and your staff during the audit process, and your willingness to consider some of the Department's observations and suggestions.

As you will note from the responses contained in Attachment 1, the Department concurs or partially concurs with virtually all of the stated recommendations. While recent work done by the Department has raised serious questions about the reliability of the data provided by the South Central Texas Regional Certification Agency ("SCTRCA") that formed the basis of some of the Audit Report's recommendations, the Department agrees that improvements can and will be made to vendor contract monitoring and performance review.

1. Background on the City's MBE/WBE Procurement Ordinance

The City of Austin has administered a Minority- and Women-Owned Business Enterprise ("MBE/WBE") program since 1987. Additionally, the City has administered a Disadvantaged Business Enterprise ("DBE") program governed by federal regulations, including 49 CFR Part 26 and Part 23, for the same period.¹ Throughout that time, the DSMBR has administered these programs in an attempt to create equality of opportunity in bidding for construction and professional service firms that are owned by

¹ Collectively, the MBE/WBE and DBE programs will be referred to as "The Program."

individuals who have historically suffered social and economic disadvantage and to ensure that it is not a passive participant in a discriminatory marketplace. Mindful of evolving constitutional law governing public contracting programs, the City has periodically reviewed the continuing need for the Program by reference to statistical and anecdotal data in the City's marketplace. It is important to view the administration of the Program as dynamic. The City has changed and updated the Ordinance and the Program as needed from time to time to address changes in law, changes in available resources, and changing availability of minority- and women-owned firms.

As part of the on-going review of the Program, for example, in March 2006 a team of consultants completed a report for the City entitled, "The State of Minority- and Woman-Owned Business Enterprises in the Austin, Texas Construction Economy."² These experts, led by Colette Holt & Associates and including NERA Economic Consulting and Anchondo Research Management & Strategies, examined evidence of discrimination in the Austin marketplace. This analysis included quantifying evidence of disparities in the business formation rates of minorities and women compared to similarly-situated white males. The team also examined and confirmed disparities in the earnings from the businesses formed by minorities and women compared to the earnings of their white male counterparts. As an additional part of the 2006 Report, the authors collected additional anecdotal evidence of experiences with discrimination through in-depth focus groups of minorities, women and non-minority males in the construction industry. The participants in these focus groups commented extensively on the Program including certification and contract administration. While there was overall praise for the City's efforts, the focus groups identified certification as an area that needed improvement.

As a result of information developed in the focus groups, DSMBR and the Purchasing Office invited personnel from SCTRCA to Austin in August, 2006 to be trained on how to update information in the City's new financial system. SCTRCA was not able to attend the training in August. DSMBR and the Purchasing office invited SCTRCA to training again in October, 2006 at which point SCTRCA sent several employees to Austin for training.

Further, in the third quarter of 2006, the City continued its ongoing efforts to monitor and refine the Program, by again hiring NERA Economic Consulting. This time, NERA was hired to conduct a comprehensive statistical update of the availability of minority- and women-owned firms in the City's construction marketplace and an analysis of suspected disparities in access to credit and capital.³

As part of the overall, ongoing review and refinement of the Program, the City became aware of performance issues with SCTRCA. To further address these concerns, DSMBR and the Purchasing Office sent several staff members from the City to SCTRCA during November and December 2006 to provide additional training to SCTRCA employees and to provide additional information management support.

² Hereinafter the "2006 Report."

³ NERA's current effort will be hereinafter referred to as the 2007 Disparity and Availability Study Update.

Ultimately, however, the City elected to terminate its contract with SCTRCA on January 19, 2007 (see Attachment 2.)

The Audit Report does not discuss the City's ongoing, multi-year effort to strengthen the evidentiary basis for the Program and to refine and improve its administration. It is important to understand that all Program issues must be evaluated through the lens of meeting strict constitutional scrutiny, which requires that the City be as flexible as practicable in Program administration. Significant milestones that have occurred within the last three years include (i) the preparation and development of the 2006 Report referenced above, (ii) recent amendments to the MBE/WBE Program Ordinance, including the adoption of revised findings adopted by the City Council in June 2006, and (iii) the contracting of NERA to evaluate the evidentiary and statistical basis for the program approved by Council in October 2006. The combination of these efforts on top of the recent initiative to re-assimilate the certification function into a new division of DSMBR, which will be discussed fully below, will work to improve the overall function of the Program and will enable the City to maintain its position as "a recognized leader in affirmative action in public contracting" and a "model for other governments."⁴

2. Response to Audit Report

The audit process has been a cooperative effort. The Audit Team explained in detail its methodology and made available the data sources upon which it relied. Management appreciates the City Auditor's cooperation through this process.

The Audit Report focuses on three areas of the Program: (1) certification; (2) contract monitoring; and (3) program enforcement.⁵ With respect to certification, the Audit Report's analysis is hindered by unreliable data provided by SCTRCA. With respect to contract monitoring and program enforcement, the audit recognizes that DSMBR has made progress in monitoring contracts,⁶ but nevertheless finds additional improvements are needed. While DSMBR concurs or partially concurs with almost all of the general recommendations in the audit, the audit lacks reference to specific events or evidence that would show that some of the recommendations (such as site audits to professional service providers) are actually necessary. Nevertheless, as discussed in Section 2(B) below, DSMBR is actively addressing each of these concerns.

a. Certification

i. The Audit Team Was Not Given SCTRCA's Complete Database

In forming the basis of its conclusions and recommendations regarding certification, the Audit Team was not given access by SCTRCA to its raw data. Instead, the Audit Report relied upon data provided by SCTRCA in the form of a Microsoft Excel Report consisting of data exported from the SCTRCA database

⁴ 2006 Report at 5.

⁵ Audit Report at 5.

⁶ Audit Report at 15.

on October 11, 2006 (“SCTRCA 10/11 Report”). The SCTRCA 10/11 Report contains only some of the actual database fields, which did not permit the Audit Team to ascertain fully and accurately the true number of certified Austin firms on the database.

SCTRCA certifies firms for approximately 17 different agency members, some of which are public entities (such as Bexar County) and others of which are private companies (such as AT&T). Accordingly, in order to determine the number of firms certified for the City of Austin, the Audit Team relied on a database field labeled “Certification_status_AU” to identify the firms in SCTRCA’s database that are certified for the City of Austin. However, because the SCTRCA 10/11 Report contained no data field descriptions, it was not possible to verify that the field “Certification_status_AU” contained all of the firms certified for the City of Austin.

When DSMBR and the City’s Financial & Administrative Services Purchasing Office (“Purchasing Office”) were able to examine the entire SCTRCA database, it was determined that the SCTRCA 10/11 Report significantly under-reported the number of firms certified for Austin. This error occurred because data in a number of relevant database fields in the SCTRCA database were not exported to the SCTRCA 10/11 Report and therefore not made initially available to the Audit Team.

For example, while the actual SCTRCA database contained fields with unique identification numbers, including the unique City of Austin Vendor Code and Tax ID numbers, those fields were not included among the data provided to the Audit Team in the SCTRCA 10/11 Report. Had these data fields been provided to the Audit Team, it would have been clear that the SCTRCA 10/11 Report contained only a partial list of firms certified for the City of Austin. When DSMBR and the Purchasing Office examined the full universe of fields available on the SCTRCA database, they discovered that some firms had a unique City of Austin vendor ID, indicating that the vendors were in fact City of Austin vendors and also had an unexpired DBE certification but were not properly listed in the Excel export. These firms clearly fall into the general category of “certified Austin firms,” but were not listed in the “Certification_status_AU” data field.

In addition, DSMBR and the Purchasing Office discovered another flaw that resulted in the SCTRCA 10/11 Report under-reporting the number of MBEs and WBEs certified for the City. SCTRCA prepared the 10/11 Report by exporting all records that contained an "Austin" flag. However, further inspection of the underlying SCTRCA database, with corroboration from the SCTRCA online access facilities, showed a significant number of firms that were clearly certified as MBEs and WBEs for Austin but that did not have the "Austin" flag set. Thus, the SCTRCA 10/11 Report understated the number of certified firms in Austin.

Ultimately, the Audit Team recognized these issues and qualified the Audit Report to indicate that “there may be as many as 142 additional firms certified in

SCTRCA records.”⁷ The Audit Report explains that the reason its numbers may be understated is because of “records that were not included in the initial data we obtained from SCTRCA because they were not flagged as ‘City of Austin’ records in the SCTRCA database.”⁸

ii. The Data Unreliability Is Illustrated In The Matching Problem

A further example of the problems caused by incomplete data from SCTRCA is illustrated in the category of vendors for which the Audit Team states that “no exact match” could be found between the City database and the SCTRCA database.

The Audit Report states that there are 360 firms certified in the City vendor database but with no exact match to certified firms in the SCTRCA database. In order to match these firms, the Audit Report states that “more research would be needed.” To illustrate the difficulty in matching data, the Audit Report provides an example of one record being listed as “Hurricane Office Supply” in the City database and as “P.D. Morrison Enterprises” in the SCTRCA database.⁹ Based on our discussions with the Audit Team, it is the Department’s understanding that the Audit Team attempted to match firms between the two databases based on firm names or firm addresses. This was necessary because the SCTRCA 10/11 Report did not include the database fields containing unique identifying codes that would have made the matching of firms between the two databases easier and more accurate.

The actual SCTRCA database, as opposed to the SCTRCA 10/11 Report, includes both Tax ID numbers and City Vendor Codes, both of which are unique identification numbers that could have been used to conduct a more accurate and more complete match. Because these data fields were omitted from the information provided to the Audit Team, it had to rely on the much less precise attempt to match firms by names or addresses.

iii. The SCTRCA Database Does Not Match The Paper Files

Another example of the poor quality of data provided by the SCTRCA is highlighted in the Audit Report itself. The auditors indicate that they sampled 51 certification paper files to compare the certification status as contained in the paper file versus the status as reported in SCTRCA’s database. Of the 51 files reviewed, the Audit Team determined that the certification status for only 42 MBEs or WBEs (82% of the sampled files) matched the certification status reported in SCTRCA’s database.¹⁰ This indicates that a significant discrepancy

⁷ Audit Report at 9.

⁸ Audit Report at 9.

⁹ Audit Report at 9.

¹⁰ Audit Report at 9.

existed between the status of the firms as indicated in actual paper files and the status of the firms reported in SCTRCA's database. The electronic data provided to the Audit Team may contain errors of as much as 18% relative to the paper files.

iv. The Audit Report Potentially Overstates The Number Of "Expired Firms" In The SCTRCA Database.

The Audit Report finds that there are 291 firms certified in the City Vendor database but with "expired" certification in the SCTRCA database.¹¹ The City is concerned that such a statement may not be supportable in light of the ordinance and rules governing certification and the state of SCTRCA's records. To make this determination, the Audit Team looked to the "certification_status_AU" field in the SCTRCA 10/11 Report to identify the firms whose certification was expired. The "certification_status_AU" field can contain several different values, including "certified," "expired," "lapsed," and "nonresponsive." It is the Department's understanding that the Audit Team counted as "expired" all vendors for which the "certification_status_AU" field showed "lapsed" or "non-responsive" (in addition to those for which the "certification_status_AU" showed "expired").

The Program's ordinance and rules provide for expiration of a vendor's certification status if the vendor fails to provide evidence that it remains eligible for certification. A vendor whose status is "lapsed" or "nonresponsive" risks expiration of its certification unless it complies with the Program requirements for proving continued eligibility, but its certification has not necessarily expired. Under the Program Rules certification does not expire until 60 days after the vendor has received final written notice of the need to renew certification.¹² Thus, it is incorrect to conclude that a certification has expired by relying solely on a SCTRCA classification of "lapsed" or "nonresponsive." Further, SCTRCA did not keep sufficient records to allow evaluation of the date of receipt of final written notice for any particular vendor. Because the certification status in the SCTRCA database by itself may not provide sufficient evidence that a vendor's certification status has expired, there is insufficient evidence to quantify the number of "expired" vendors in the SCTRCA database.

v. SCTRCA Provided Data From Only One Day

Management has an additional methodological concern related to the Auditor's reliance on a single day's— October 11, 2006—data from SCTRCA. A one-day snapshot is not enough evidence to determine whether a single-day's discrepancy is normal or unusual. The database is constantly shifting as firms

¹¹ Audit Report at 9.

¹² See, e.g. CITY CODE § 2-9(A)-(D)-15(K) ("Failure of the Firm to seek recertification by filing the necessary documentation with DSMBR within 60 calendar days from the date of receipt of written notification from DSMBR shall result in decertification."). (Emphasis added). The point here is that decertification is triggered 60 days after DSMBR (or its designee) sends out "written notification." Our review of SCTRCA's files revealed that SCTRCA was not sending out such notification in a regular or timely fashion.

are being certified for the first time, recertified after a lapse, or as they become decertified, so it would not be unexpected to find some discrepancy between the City's vendor database and SCTRCA's records. While it is understood that the Audit Team had to take a snapshot in order to avoid chasing a moving target (i.e., a constantly changing database), it would have been more comprehensive to review data from several points in time to determine whether discrepancies were systematic or aberrational.

vi. The Audit Report Reviewed Data Contained On The City's Database Prior To A Major Conversion to a New Financial System

Furthermore, in comparing information contained on SCTRCA's database to information contained in the City's vendor database, the Audit Report reviewed City information contained in the AFS2 financial system. The City had been engaged for a number of months in an effort to implement a new financial system called AFS3 (now called AIMS) that was expected to launch on October 1, 2006. The switch to AFS3 was a significant task. When the City switched from AFS2 to AFS3, the City purged over 50% of the AFS2 vendor records that contained inaccurate data or had otherwise become inactive or obsolete. As part of this purge, the City removed approximately 10,000 records relating to city employee reimbursement accounts which were not the records of city vendors. These vendors never have been eligible for prime contract or subcontract awards. The Audit Report highlights inaccuracies in some of the addresses found in the City's vendor records,¹³ but the inaccuracy potentially stems from addresses contained in AFS2 that were updated after the switchover to AFS3.

b. The City of Austin Terminated Its Contract with SCTRCA

The City's goal is to operate a model Program. Maintaining public confidence in the accuracy of vendor files and the efficiency of the certification function is paramount to DSMBR's mission. Accordingly, to address concerns about SCTRCA's management of the certification function, the City terminated its contract with SCTRCA. Since terminating the contract, the City has secured the original files of its vendors that had been previously in the possession of SCTRCA. As of February 5, 2007, the City assigned a temporary team of 18 individuals, including six employees from DSMBR, three employees on loan from other City departments, one City consultant and 8 temporary employees, to perform the following tasks:

- Reviewing and organizing all MBE, WBE and DBE files received from SCTRCA
- Verifying certification status of every vendor and ascertain missing information, if any
- Reviewing annual updates and information previously submitted to SCTRCA from City Vendors to supplement their files
- Requesting additional information by mail, fax and phone of City Vendors to ensure complete files
- Reviewing submitted information for accuracy and completeness

¹³ Audit Report at 12.

- Mailing “Annual No-Change Affidavits” to businesses already due or coming up for first and second year renewals in order to expedite processing
- Developing 3rd Year Recertification Process and requests for information
- Identifying 3rd yr lapsed vendors and mailing them 3rd yr renewal applications
- Accepting and reviewing new applications for certification
- Conducting site visits for new applicants as necessary
- Entering updated certification status into AIMS
- Preparing and mailing certificates
- Reviewing and revising all forms to be used by DSMBR to reduce paperwork and ensure accuracy
- Working with City departments such as Purchasing to ensure coordination and accuracy of data
- Answering questions from client businesses
- Coordinating with federal and state agencies affiliated with the Texas Unified Certification Program for DBEs

This effort is being undertaken in order to strengthen confidence in the City’s certification process.

It is important to note that the City of Austin had -- well before the audit commenced in August 2006-- begun a review of SCTRCA’s responsiveness to City vendors. As discussed in the 2006 Report, the focus groups conducted by Ms. Holt uncovered concerns among the MBE/WBE community and City staff about SCTRCA before the Audit Team became involved. For example, the 2006 Report states that “almost all comments regarding the recent outsourcing of the City certification function to the South Central Texas Regional Certification Authority (SCTRCA) were negative.”¹⁴ It continues, “Lack of responsiveness and delays in processing applications were mentioned numerous times.”¹⁵ As mentioned earlier, because of the concerns raised in the 2006 Report, the City invited SCTRCA to Austin for additional training in August, conducted training in October, and sent personnel to SCTRCA in November and December to ascertain the situation.

It is imperative for the City to maintain accurate certification files and an updated database. It appears, however, that the data provided by SCTRCA, and relied upon by the Audit Team in drawing its conclusions with regard to certification, may not have been complete. While the Department does not dispute that SCTRCA’s performance was inadequate and that its database contained errors, the extent of the discrepancy between the City’s database and that of SCTRCA cannot be fully and accurately determined using the information provided by SCTRCA. Through the process of re-assimilating the certification function into DSMBR and updating the City’s financial accounting system to AFS3, Management expects that all concerns raised by the Audit Report regarding certification will be addressed.

¹⁴ 2006 Report at 70.

¹⁵ 2006 Report at 70.

3. DSMBR Is Currently Undertaking Significant Improvements in Contract Monitoring and Program Enforcement

Concerning contract monitoring and program enforcement, it is encouraging to see that the Audit Report has recognized that DSMBR has “made progress in monitoring contracts.”¹⁶ Further, DSMBR does not dispute that additional improvements are needed in contract monitoring. Depending on the level and detail of contract monitoring and site audits that DSMBR may be required to perform, DSMBR may require new and additional resources to assist it in enhancing its efforts.

a. DSMBR’s Role in Post-Award Contract Evaluation Is Limited

The Audit Report recognizes that “the creation of a group dedicated to post-award activities has increased the level of monitoring performed on construction contracts; however, further improvements could be made.”¹⁷ Although DSMBR generally concurs with the call for improvements in contract monitoring and performance evaluation, some of the specific statements made in the Audit Report seem to expand DSMBR’s scope beyond its current mission, and MBE/WBE program best practices.

The Audit Report states that DSMBR should develop internal policies and procedures, including guidelines for site audits, and it implies that DSMBR’s efforts have been lacking because out of 17 closed construction contracts, the Audit Report finds that only one site audit was conducted. The City has numerous personnel from other City departments visiting construction sites on a daily basis, including project managers, City inspectors, and other individuals who already exercise oversight authority for construction contract management. Greater coordination between these individuals and DSMBR could address the concern raised by the Audit Report. If DSMBR were to undertake the responsibility to conduct site audits to ensure that subcontractors that have been promised to be used on a contract are actually at the jobsite, the effort would require a significant increase in DSMBR personnel.

Furthermore, with respect to professional services, the Audit Report states that “there is no ongoing proactive monitoring by SMBR, such as . . . site audits.”¹⁸ Site audits would be very unusual for professional service contracts. Professional service providers often work within their own offices, and subcontracted professional service providers will not necessarily be “on the site” of the prime contractor. DSMBR is not aware of any systematic problems with professional services contract administration that would be addressed by site visits, nor did the 2006 Report disclose anecdotal evidence of such a need. Accordingly, it is not clear what purpose a site audit would serve. DSMBR’s practice of limiting follow-up monitoring and site audits to professional services contracts where an issue has arisen between

¹⁶ Audit Report at 15.

¹⁷ Audit Report at 16.

¹⁸ Audit Report at 16.

the prime consultant and the subconsultant is a prudent use of scarce resources. Unless there is evidence of problems that are not being brought to DSMBR's attention, it is unlikely that DSMBR could undertake site audits of professional service providers without a material increase in its resources and personnel.

b. Stronger Paper Documentation Controls Are Being Put Into Place

The Audit Team's "observed weakness in SMBR's paper documentation system," will be addressed as part of the responsibilities of the new division manager in charge of certification and administration. DSMBR will implement additional controls to ensure that contract documentation is complete and will work with contract administration and management to ensure that such documentation exists in the City's central files.

c. Tracking Program Non-Compliance

The Audit Team also states that DSMBR lacks guidelines for enforcement of program rules and does not have a mechanism in place to "track violations."¹⁹ It should be noted that the MBE/WBE Compliance Plan is explicitly made part of the construction contract between the City and the prime contractor so that failure to meet the commitments in the Compliance Plan could be deemed a breach of contract. Monitoring of the covenants contained in the Compliance Plan should be considered in the same light as any other contractual issue, and be subject to the same administrative mechanisms.

It is also important to recognize that strict constitutional scrutiny requires flexibility in the administration of the MBE/WBE Program. Rigid, mandated outcomes or punishments may raise judicial concerns. Consideration of any violations must therefore be made on a case-by-case basis.

Additionally, the Audit Team's reference to the concern that "prime contractors with repeated violations may be allowed to continue participating in City contracts" appears to be hypothetical as the Audit Report does not assert the existence of or provide evidence supporting any actual "repeat offenders." Nevertheless, the City will begin to collect data to determine whether a problem exists, and if it does, the extent of the problem identified by the Audit Team. If such a problem does exist, DSMBR will work with contract management to develop procedures to address repeated non-compliance.

Of course, in a competitive bidding situation, the City is required to award a contract to the lowest responsive and responsible bidder.²⁰ Compliance with the MBE/WBE Program is required for responsiveness and responsibility.

¹⁹ Audit Report at 17.

²⁰ Local Government Code, Chapter 252.

d. Concerns About the Audit Surveys

The business survey and survey results referenced in the Audit Report also require brief comment. Without additional information regarding the methodology used to develop the survey instrument and the actual response rate, it is difficult to fully respond to the survey results. For example, it is a common practice among survey administrators to follow up non-responses with a statistically significant sampling of non-responders using a telephone follow-up survey, and it is not clear whether this was undertaken as part of the survey conducted by the Audit Team.

The business experience surveys that will be conducted as part of the 2007 Disparity and Availability Study Update will use up-to-date and scientifically-tested research survey methodologies to provide an accurate and reliable characterization of business owner experiences with City and market-wide procurement.

The Auditor also compared MBE/WBE programs of several other cities, some of which Ms. Holt has consulted with. Among the other cities examined are Seattle and Jacksonville, both of which have programs that are sufficiently distinct from the City of Austin's so as to make comparison difficult. Seattle, for example, is subject to "Initiative 200," a constitutional amendment that was adopted by the State of Washington in 1998 and, similar to Proposition 209 in California, effectively abolishes gender- and race-conscious affirmative action programs in the state. Furthermore, without more information about the other cities that were surveyed, it cannot be determined that their programs are comparable to the City of Austin.

4. Conclusion

The Department appreciates the opportunity to respond to the Audit Report and looks forward to continuing efforts to improve the mission of the Program.

Respectfully submitted,



Rudy Garza
Assistant City Manager

XC: Toby Hammett Futrell, City Manager

Attachments

ATTACHMENT 1

ACTION PLAN SMBR Audit

Rec #	Recommendation Text	Concurrence	Proposed Strategies for Implementation	Status of Strategies	Responsible Person/ Phone Number	Proposed Implementation Date
01	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.	Partially Concur DSMBR agrees that inaccuracies in the City's database should be corrected. However, DSMBR cannot concur with the extent of the problem as described in the Audit Report because the following variables make it difficult to know the problem's true extent: 1. The database provided by SCTRCA was missing several key fields, which affected how firms' status was categorized. 2. Information in SCTRCA's paper files did not always match SCTRCA's database, calling into question the accuracy of the electronic data provided to the Audit team. 3. Unfamiliarity with Program rules by the Audit team and lack of certain documentation in SCTRCA's files inflated the number of "expired" firms reported. 4. The City's database is constantly shifting as vendors are certified, recertified after a lapse, or decertified, so a single-day snapshot is not comprehensive enough to show the extent of the problem. 5. The City launched a major conversion to a new financial system shortly after the Audit team took its snapshot, so the Report did not take into consideration the purge of obsolete, inaccurate, and misplaced data that occurred during the conversion.	Many of the concerns have been addressed in the switchover from the AFS-2 financial system to the AFS-3 system (AIMS). In addition, DSMBR has resumed the certification function and is (1) evaluating each vendor file that was reported to be "inaccurate" to ensure accuracy; and (2) reviewing all other vendor files to ensure complete and accurate file documentation.	Partially completed. The remainder is ongoing.	Steve Elkins, Director of DSMBR (974-1414)	Ongoing.

ATTACHMENT 1

ACTION PLAN SMBR Audit

Rec #	Recommendation Text	Concurrence	Proposed Strategies for Implementation	Status of Strategies	Responsible Person/ Phone Number	Proposed Implementation Date
02	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.	Concur.	As part of resuming the certification function, DSMBR is conducting an organizational assessment to effectively address data management issues. One aspect of this is the development of a new position for a Business Systems Analyst who will be responsible for ensuring data will be input properly, consistently, and in synchronization with Purchasing, Public Works and other user departments.	Ongoing.	Primary - Steve Elkins, Director of DSM/BR (974-1414) Support - Byron Johnson, Purchasing Officer, 974-2050	Ongoing.

ATTACHMENT 1

ACTION PLAN SMBR Audit

Rec #	Recommendation Text	Concurrence	Proposed Strategies for Implementation	Status of Strategies	Responsible Person/ Phone Number	Proposed Implementation Date
03	In order to ensure sufficient monitoring of the certification activity, the Director of SMBR should ensure that relevant certification monitoring roles and expectations are clarified and documented.	Concur.	As part of resuming the certification function, DSMBR has created a new management-level position that will be responsible for overseeing all aspects of the certification function, including monitoring. The expectations and roles of this position will be formally documented. Additional Department changes are also being considered.	Partially completed. The remainder is ongoing.	Steve Elkins, Director of DSMBR (974-1414) Veronica Lara, Manager of Certification and Administration (974-2156)	Ongoing.

ATTACHMENT 1

ACTION PLAN SMBR Audit

Rec #	Recommendation Text	Concurrence	Proposed Strategies for Implementation	Status of Strategies	Responsible Person/ Phone Number	Proposed Implementation Date
04	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.	Concur.	See strategies identified in #s 2 and 3, above.	Ongoing.	Primary - Steve Elkins, Director of DSMBR (974-1414) Support - Byron Johnson, Purchasing Officer, 974-2050	Ongoing.

ATTACHMENT 1

ACTION PLAN SMBR Audit

Rec #	Recommendation Text	Concurrence	Proposed Strategies for Implementation	Status of Strategies	Responsible Person/ Phone Number	Proposed Implementation Date
05	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 that firms have the capacity to perform under the commodity codes for which they are certified.	Partially concur. 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 M/WBE certification. While the Department will conduct site visits as described above to investigate a firm's eligibility for certification, the Department does not make any determination that an eligible firm will have the capacity to perform on any given contract. A firm's capacity is dynamic and must be determined on a contract-by-contract basis after review of a firm's existing workload, staffing levels, equipment availability and remaining bonding capacity (if bonding is necessary).	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.,	Ongoing in part; the remainder is planned.	Primary - Steve Elkins, Director of DSMBR (974-1414) Support - Sondra Creighton, Director of Public Works, 974- 7175	Ongoing.

ATTACHMENT 1

ACTION PLAN SMBR Audit

Rec #	Recommendation Text	Concurrence	Proposed Strategies for Implementation	Status of Strategies	Responsible Person/ Phone Number	Proposed Implementation Date
06	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 Compliance Team. Additionally, the Director of SMBR should coordinate with the Public Works Department to facilitate monitoring of rotation list contracts.	Concur.	DSMBR will conduct a comprehensive review of monitoring procedures and determine the appropriate group within the Department to monitor professional service projects. DSMBR will coordinate with Public Works to facilitate monitoring of rotation list contracts.	Planned.	Primary - Steve Elkins, Director of DSMBR (974-1414) Support - Sondra Creighton, Director of Public Works, 974- 7175	Ongoing.

ATTACHMENT 1

ACTION PLAN SMBR Audit

Rec #	Recommendation Text	Concurrence	Proposed Strategies for Implementation	Status of Strategies	Responsible Person/ Phone Number	Proposed Implementation Date
07	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; both project specific and rotation list contracts.	Partially concur 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	DSMBR will improve its service and will coordinate with the Public Works Department to further define procedures for addressing contract closeout.	Planned.	Steve Elkins, Director of DSMBR (974-1414)	Ongoing.

ATTACHMENT 1

ACTION PLAN SMBR Audit

Rec #	Recommendation Text	Concurrence	Proposed Strategies for Implementation	Status of Strategies	Responsible Person/ Phone Number	Proposed Implementation Date
08	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.	DSMBR concurs, but notes that a check list is currently used at contract closeout.	DSMBR will vest the responsibility of implementing record management controls with the newly created position of Manager of Certification and Administration.	Ongoing.	Steve Elkins, Director of DSMBR (974-1414) Veronica Lara, Manager of Certification and Administration (974-2156)	Ongoing.

ATTACHMENT 1

ACTION PLAN SMBR Audit

Rec #	Recommendation Text	Concurrence	Proposed Strategies for Implementation	Status of Strategies	Responsible Person/ Phone Number	Proposed Implementation Date
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.	Partially concur The MBE/WBE Compliance Plan is explicitly made part of the construction contract between the City and the prime contractor so that failure to meet the commitments in the Compliance Plan could be deemed a breach of contract, subject to the same administrative and judicial mechanisms as any other contractual issue. Nonetheless, DSMBR agrees that the progress it has already made in monitoring 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.	DSMBR has begun discussions with the Law Department and the Purchasing Office to more fully address situations in which sanctions may be appropriate.	Ongoing.	Primary - Steve Elkins, Director of DSMBR (974-1414) Becky Casares, Assistant City Attorney, 974-2518 Byron Johnson, Purchasing Officer, 974-2050	Ongoing.

ATTACHMENT 1

ACTION PLAN SMBR Audit

Rec #	Recommendation Text	Concurrence	Proposed Strategies for Implementation	Status of Strategies	Responsible Person/ Phone Number	Proposed Implementation Date
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 sub contractors identified as well as correspondence and sanction letters sent to firms.	Concur	DSMBR will work with Public Works and other project management departments to develop a comprehensive system to track violations of contract covenants and to discuss appropriate sanctions.	Planned.	Steve Elkins, Director of DSMBR (974-1414) Support – Sondra Creighton, Director of Public Works, 974-7175 Becky Casares, Assistant City Attorney, 974-2518	Ongoing.

ATTACHMENT 1

ACTION PLAN SMBR Audit

Rec #	Recommendation Text	Concurrence	Proposed Strategies for Implementation	Status of Strategies	Responsible Person/ Phone Number	Proposed Implementation Date
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.	Concur	DSMBR concurs generally with this recommendation and has implemented this through a comprehensive management review and reorganization. Additional resources may be needed to more fully implement this recommendation.	Ongoing.	Steve Elkins, Director of DSMBR (974-1414) Greg Canally, Budget Officer, 974-2609	Ongoing.

ATTACHMENT 1

ACTION PLAN SMBR Audit

Rec #	Recommendation Text	Concurrence	Proposed Strategies for Implementation	Status of Strategies	Responsible Person/ Phone Number	Proposed Implementation Date
12	In order to ensure that SMBR has timely access to information needed for decision making, the Director of 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	DSMBR will work within the structure of the CTM and the Purchasing Department to ensure that trained DSMBR employees have the knowledge and the authority to produce necessary reports to meet the Department's needs. In addition, the Department is adding a Business Systems Analyst to manage the departmental data and technology needs.	Ongoing.	Steve Elkins, Director of DSMBR (974-1414). Pete Collins, Chief Information Officer, 974-2344	Ongoing.

ATTACHMENT 1

ACTION PLAN SMBR Audit

Rec #	Recommendation Text	Concurrence	Proposed Strategies for Implementation	Status of Strategies	Responsible Person/ Phone Number	Proposed Implementation Date
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.	Concur	DSMBR concurs that it is necessary to refine the existing Performance Management System and existing monitoring to improve its effectiveness. Through DSMBR's comprehensive management organizational review DSMBR is implementing this recommendation.	Ongoing.	Steve Elkins, Director of DSMBR (974-1414).	Ongoing.



City of Austin

Assistant City Manager's Office
P.O. Box 1088, Austin, TX. 78767
(512) 974-2000

January 18, 2007

Sheena Suber
Executive Director
South Central Texas Regional Certification Agency
305 East Euclid, Suite 102
San Antonio, TX 78212

By Facsimile and Certified Mail, Return Receipt Requested

Re: Notice of Withdrawal

Dear Ms. Suber:

This letter hereby serves as written notice, pursuant to Section 7.1 of the Interlocal Cooperation Agreement for the South Central Texas Regional Certification Agency originally executed by the City of Austin on September 15, 2004 (the "Agreement"), that the City of Austin is withdrawing from the South Central Texas Regional Certification Agency ("SCTRCA.")

The City of Austin intends for this withdrawal to be effective sixty (60) days from the date of this letter, which is March 19, 2007. Since the effective date of withdrawal occurs between October 1 and July 30 of the fiscal year, the City of Austin understands that, pursuant to Section 7.1 of the Agreement, it forfeits its annual contribution of \$65,000 to SCTRCA for this fiscal year.

By way of copy, this letter is also being sent to each other participant in the SCTRCA (as listed in the 2006 Member Entity Contact Information List), as required for proper notice under the Section 7.1 of the Agreement.

Also, please note on the next page that the City Manager has appointed a new representative and a new alternate to serve on the SCTRCA Board of Directors for the remaining 60-day period.

Respectfully yours,

Rudy Garza
Assistant City Manager



City of Austin

Assistant City Manager's Office
P.O. Box 1088, Austin, TX. 78767
(512) 974-2000

January 29, 2006

Sheena Suber
Executive Director
South Central Texas Regional Certification Agency
305 East Euclid, Suite 102
San Antonio, TX 78712

By Facsimile and Regular Mail

Re: Correction on Notice of Withdrawal dated 1-18-07

Dear Ms. Suber:

You have informed us that the Notice of Withdrawal (the "Notice") we recently sent to you, dated January 18, 2007, had an error regarding the amount of the annual contribution reflected therein. Specifically, you have informed us that the City of Austin annual contribution should have been reflected in the Notice as \$50,000, and not \$65,000.

You have requested that we correct this error in the Notice. This letter is intended to serve that purpose. Therefore, the City of Austin hereby amends its previously-submitted Notice as follows:

Paragraph 2, sentence 2:

"Since the effective date of withdrawal occurs between October 1 and July 30 of the fiscal year, the City of Austin understands that, pursuant to Section 7.1 of the Agreement, it forfeits its annual contribution of \$50,000 ~~\$65,000~~ for this fiscal year."

All other provisions of the Notice remain unchanged. A courtesy copy of this Notice correction is being mailed to the same SCTRCA participants who received the original Notice, as shown on pages 3-5 of the original Notice.

Respectfully yours,

Rudy Garza
Assistant City Manager

Cc: SCTRCA participants

APPENDIX B
SURVEY OF OTHER CITIES MBE/WBE PROGRAMS

This Appendix B shows the results of the survey of other cities' Small and Minority Business Enterprise (MBE/WBE) programs conducted during the course of this audit.

The survey was conducted to determine how the City of Austin's Small and Minority Business Enterprise program compares to other cities in the areas of certification, contract monitoring, and program enforcement.

We selected the eight cities listed below based on their geographical location, the size of the city, and the racial mix in the city in relation to the City of Austin.

1. Houston, Texas
2. Forth Worth, Texas
3. San Antonio, Texas
4. Dallas, Texas
5. Seattle, Washington
6. Jacksonville, Florida
7. Columbus, Ohio
8. Memphis, Tennessee

Out of the eight cities we contacted, four responded, namely Houston, Fort Worth, Seattle, and Jacksonville. The matrix on the next two pages contains a summary of their responses.

Survey of Cities MBE/WBE Programs

What type of information do you use to evaluate the overall impact of your program?	How do you monitor contracts after they are awarded?	What enforcement steps do you take when a contractor does not comply with program requirements?	Do you collect/track performance measures in the areas of contract monitoring; program enforcement; and certification?
Seattle, Washington			
Once the contracts are awarded, the City collects monthly payment information on all firms working on the construction contracts. The City also collects workforce demographics of the Prime Contractor's entire workforce	The City has a team of five contract analysts that are assigned to monitor the social equity requirements applied to construction contracts	City law provides for debarment	None
Jacksonville, Florida			
On a quarterly basis the program management compiles information that includes expenditures paid to small & emerging business, dollars paid as a result of subcontracting opportunities on formal and informal awards. The data is then further broken down by ethnicity. This information gives the program management the ability to compare the data from one quarter to another. The result from the comparison tells how well the program is performing annually	There City has a staff of 11 in the division of Procurement. In addition to the many tasks performed by the specialist, each is assigned to a contracting area, i.e., professional services, construction, other services. Staff monitors contracts in a number of ways, (1) receiving copies of pay request from prime contracts and in the construction area. (2) Specialists are on-site to monitor work and ensure that subcontractors listed are actually performing the required work	With the adoption of the Ordinance, came the position of an Ombudsman who has the power to settle disputes and recommend penalties to the Director of Procurement. Possible penalties include debarment, withholding of payments and possible substitution.	The City is currently in the process of creating departmental dashboards to track the aforementioned. The only performance measurements that now appear is a part of the employee evaluation. It makes the employee responsible for assisting in achieving the established annual goals. The program is only two years old so there is no data for 3 years
Fort Worth, Texas			
The overall impact of the program is evaluated on the percentage of goals achieved	The Good Faith Effort Division of the Business Development & Procurement Services Department monitors monthly payments to the prime and their payments to their sub contractors/consultants to make sure that the level of participation on the sub contractor/ consultant intent form is met or an explanation for not meeting the participation is provided. Payments to MWBE as well as NON MWBE payments are monitored	Failure to comply with the Good Faith Effort Program which includes meeting the goal or providing the documentation of their Good Faith Effort when the goal is not met could result in the company being debarred from doing business with the City of Fort Worth	No
Houston, Texas			
The City of Houston looks at dollars awarded to M/WBEs, in relation to the City's overall goals. The performance measures include targets for the number of companies certified, the number of days it takes to process applications, the number of S/MWBE business owners trained, the quality of services provided, and soon will be able to report on the dollars actually awarded to M/WBEs	The City has a web based monitoring system, which allows contractors to submit their monthly payments to M/WBEs online. The system then sends emails or faxes to the M/WBEs to verify the prime's payments	Construction contractors receive ratings (Outstanding, Satisfactory, or Unsatisfactory). Contractors can be debarred or sanctioned from participating in City contracts for a period of up to 5 years (none have been sanctioned or debarred, to date)	The City collects performance measures in the areas of contract monitoring, and certification, but currently does not collect performance measures in the area of program enforcement

How do you ensure the reliability of the performance data you collect	Do you do any benchmarking for best practices? If so what cities have you benchmarked against?	Do you certify MBE/WBE (please indicate whether in-house or outsourced) that participate in your program?	Could you provide us a copy of your Certification Policies and/or Procedure Manual?	In certifying firms, do you perform site visits and audits of the assets and equipment of the firms seeking certification? Are these required?	Are firms certified for commodity codes of work? If so, is there a limit to the number of commodity codes a firm can be certified in?	What criteria do you use to determine the eligibility and capability of the firms?
Seattle, Washington						
The information submitted by the contractor is accepted on good faith	No best practices assessment is conducted	The State of Washington does certify W/MBE firms. The City also accept the W/MBE designation of firms that self-identify as W/MBEs	Not applicable	Not applicable	Not applicable	Not applicable
Jacksonville, Florida						
The program is only two years old so there is no data for 3 years	Currently Jacksonville does not do any benchmarking. According to the program management, the City has had a numbers of inquiries about how the program works including inquiries from Tennessee, and other parts of Florida	Currently the certification of Jacksonville Small & Emerging Business and MBEs is done in-house	Certification information and minimum requirements for the program, annual report and ordinance are available on the City website www.coj.net (under Procurement Department, then JSEB/EBO)	The City performs site visits. The Small Business Resource Network is paid to perform Fiscal Physicals on companies once they are certified. The Fiscal Physical is a financial analysis of MBE/WBE firms.	The City uses NIGP codes	Refer to the City website www.coj.net
Fort Worth, Texas						
A final review is made by the Good Faith Effort staff which compares the planned participation against the actual participation. This review assures that the level of participation is met or that documentation is provided explaining the difference	No	Certification is outsourced to the North Texas Central Certification Agency	Refer to the North Texas Central Certification Agency (NCTRCA) Tel: 817 640-0606	Outsourced to the NCTRCA	Outsourced to the NCTRCA	The specifications determines whether the company meets the minimum criteria to participate on a project
Houston, Texas						
The City compiles monthly reports on performance measures and also for the certification activity the City performs desk, financial, and field audits, followed by committee reviews	Not recently	Certification is in-house	The City is currently revising its Certification Procedures manual to create of modular training program, where Certification Specialists must demonstrate proficiency in one level before progressing to the next	The City performs site visits as well as audits of the assets and equipment of the firms seeking certification	The firms are certified for commodity codes of work and they can only be certified for areas they can prove that they have worked in before	Refer to City of Houston Code of Ordinances, 49 CFR, and MWBE Certification Procedures

SOURCE: OCA Summary of survey of other cities, October 2006.

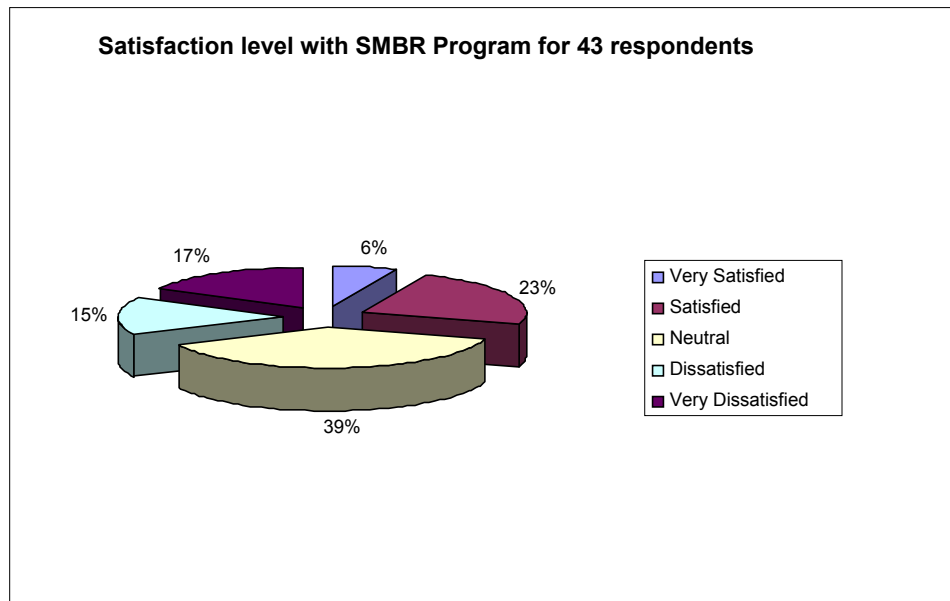
APPENDIX C
SURVEY OF AUSTIN MINORITY- AND WOMEN-OWNED
BUSINESSES

This Appendix C shows the results of the survey of the quality and effectiveness of the Minority and Women Owned Business Enterprise (MBE/WBE) Procurement Program administered by the City's Department of Small and Minority Business Resource (SMBR) that was conducted during the course of this audit.

The survey was administered by a team of students from the McCombs School of Business at the University of Texas at Austin. The students contacted firms by email or mail. Firms surveyed include the 1,401 firms listed as certified in the City of Austin vendor database, and other women- and minority-owned firms in the Austin areas that were identified through the coordination with various minority chambers of commerce.

A total of 56 firms responded to the survey. Out of the 56 respondents, at the time of the survey, 46.4% were certified MBE/WBE firms and active in bidding for City contracts; 33.9% were certified MBE/WBE firms, but inactive; and 19.7% were not certified MBE/WBE firms or were unaware of the SMBR and had no prior involvement with SMBR.

Out of the 56 respondents, 43 firms expressed their satisfaction or dissatisfaction with SMBR services, 11 respondents did not to express their view, and 2 responses were disqualified due to invalid answers. The chart below shows the respondents level of satisfaction with SMBR.



SOURCE: OCA Analysis of the Survey on MBE/WBE Program, December 2006.

Some respondents also shared their comments related to their satisfaction or dissatisfaction with SMBR and the MBE/WBE program. These comments are summarized below.

Some of the positive comments from the respondents were:

- The program has enabled minority owned firms to be awarded city contracts, which they would not get in the absence of the program.
- The program has given opportunities to qualified vendors even for non-technical fields.
- SMBR has helped the minority firms to become more visible and to gain access to city contracts.
- SMBR is doing a great job at notifying minority subcontractors for opportunities when one is available as is being done on ACWP projects.
- Outsourcing the certification process to South Central Regional Certification Authority has:
 - Made the certification process easy and fewer renewal applications need to be filled out;
 - Made the certification applications easy to acquire because it is on the website;
 - Simplified the process of accessing certified vendor's information

However, some respondents expressed their dissatisfaction with the program, primarily in the areas of certification, procurement, contract monitoring, and outreach.

Certification

Some respondents expressed concerns about the inefficiency of the certification activity. Their concerns were that wrong firms get certified and that certification and re-certification of MBE/WBE firms is not consistently done in a timely manner.

Procurement

The respondents who expressed dissatisfaction in this area felt that the current procurement process involves a lot of paperwork and is time consuming. They also thought that the contractors especially in the construction projects need flexibility on who they decide to use as subcontractor as long as they maintain their original goals.

Program monitoring

The respondents who expressed their dissatisfaction in this area thought that SMBR does not penalize contractors who do not fulfill their contractual obligations. They also indicated that SMBR needs to improve the way they interpret, enforce, and monitor the MBE/WBE program.

Outreach

The respondents commented on weaknesses in this area including SMBR staff inaccessibility, poor customer handling, and poor response to vendor problems.

Survey

The survey included the following questions.

1. What line of business is your organization in? _____

2. Is your business a minority owned or women owned business?

Yes / No

3. Are you aware of the Small and Minority Business Resources Department's (SMBR) Minority/ Women Owned (MBE/WBE) Business Procurement Programs?

Yes / No

If so, from where/whom did you hear? _____

4. How would you describe your involvement with the SMBR's MBE/WBE Procurement Program?

- A. I am a certified MBE/WBE vendor and active in bidding for City contracts.
- B. I am a certified MBE/WBE, but inactive.
- D. I am not a certified MBE/WBE.
- E. I am unaware of the SMBR and have no prior involvement.

5. If you responded with answers A or B for Question 4, please describe your overall experiences with the program?

- A. Very Satisfied (the program is working above my expectations)
- B. Satisfied (the program is working effectively)
- C. Neutral
- D. Dissatisfied (the program needs significant change)
- E. Very dissatisfied (the program needs drastic change)

If you have answered E to Question 5, please explain why.

If possible, please elaborate on how you have benefited (or suffered) from the program.

6. If you responded with answers A or B for Question 4, how would you describe your overall experience with the commodity code selection process?

- A. Very Clear (extremely easy process)
- B. Clear (not difficult to understand)
- C. Neutral
- D. Unclear (difficult to understand)
- E. Very Unclear (extremely difficult process)

If possible, please elaborate on your experiences with this process.

7. How would you describe the accessibility of the MBE/WBE program?
- A. Highly Accessible (easy access to program information)
 - B. Somewhat Accessible (limited access to program information)
 - C. Hardly Accessible (difficult to find program information)
 - D. Not accessible (information about the program could not be found)

8. Overall, I believe the MBE/WBE Program is successful in assisting minority owned and women owned businesses in participating in City contracts.
- A. Strongly Agree
 - B. Somewhat Agree
 - C. Neutral
 - D. Somewhat Disagree
 - E. Strongly Disagree

9. Given your experiences with the SMBR's MBE/WBE procurement program, please describe one or more components that you perceive to be working most effectively.

10. Given your experiences with the SMBR's MBE/WBE procurement program, please describe one or more components that you perceive to be working least effectively.
