LEVERAGING DIVERSITY – LEGAL AND BUSINESS CONSIDERATIONS

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LEVERAGING DIVERSITY – LEGAL AND BUSINESS CONSIDERATIONS

I. OVERVIEW

In virtually every area of public sector/government contracting, a portion of the overall contracts must be awarded to minority, disadvantaged or women-owned businesses, and most recently, military veterans. Additionally, the federal government and some state and local governments provide resources to those groups, including access to capital, training and preferential status when bidding on state or federal government contracts through “set aside” programs. The underlying purpose of these programs is to combat the historical exclusion of these groups from economic opportunities.

Franchisors and their franchisees are leveraging these programs to create economic development opportunities and grow and strengthen their franchise systems. To do so, both franchisors and franchisees may seek certain designations, described in this paper, required for access to these programs. Obtaining those designations generally involves certification based on varying requirements that can be onerous, but provides the means to capitalize on opportunities to expand franchise unit counts into locations that emphasize the participation of those designations, particularly in venues such as airports, train stations, convention centers, sports arenas and tollways. It also can provide additional markets for the goods and services provided by the franchised locations.

This paper will (i) examine the requirements for qualifications for and designation as a disadvantaged, minority or women-owned business enterprise by various federal, state, county, and municipal agencies, as well as specific business opportunities for such enterprises; (ii) explore military and veterans programs and their effect on franchising, and (iii) survey current efforts by franchisors and franchisees to increase participation in these programs.

II. MBE/WBE DESIGNATION

In the public contracting arena, a business owner achieves designation as a “Minority Business Enterprise” ("MBE") or as a “Women-Owned Business Enterprise" ("WBE") through a certification application submitted to the applicable governmental unit (regional, state, local or other) charged with issuing such certifications or such other organizations recognized by those...
governmental entities. Although the government agency ultimately awards MBE or WBE certification, MBE/WBE eligibility derives from statute or ordinance.

A. **Elements of an MBE Designation**

Most jurisdictions define MBE as a small local business enterprise which is at least 51% owned by one or more economically disadvantaged minority persons, or, in the case of a publicly held corporation, at least 51% of all classes of the stock of which is owned by one or more economically disadvantaged minority persons, whose management, policies, major decisions and daily business operations are independently managed and controlled by one or more economically disadvantaged minority persons and which is not an “established business.” With this definition in mind, there are five key factors that certifying agencies examine when determining MBE status: 1) Minority Status; 2) Ownership; 3) Control; 4) Business Size; and 5) Geographical Jurisdiction.

1. **Minority Status**

   Although this component appears to be fairly self-explanatory, it is important to note that the term “minority” is statutorily defined and typically only covers those racial and ethnic groups that have a history of economic and social disadvantage. As such, “minority” or “minority group” means those individuals or groups who are citizens of the United States (or lawfully admitted permanent residents) who are in any of the following racial/ethnic groups:

   i. African-American or Black (persons having origins in any of the black racial groups of Africa);

   ii. Hispanic (persons of Spanish culture with origins in Mexico, South or Central America or the Caribbean Islands, regardless of race);

   iii. Asian American (persons having origins in any of the original peoples of East Asia, Southeast Asia, the Indian subcontinent, or the Pacific Islands); or

   iv. Other groups, or other individuals, found by the certifying agency (or other authorized governmental unit) to be socially and economically disadvantaged and to have suffered actual racial or ethnic discrimination and decreased opportunities to compete in the applicable jurisdiction.

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3 For example, the National Minority Supplier Diversity Council (NMSDC) and Women’s Business Development Council (WBDC) have been given certification authority by various municipalities.


6 Under Chi, Ill. Mun. Code § 2-92-420 (2013), an entity seeking MBE or WBE designation may not be an “established business” which is a “business entity, which by virtue of its size and capacity for competing in the markets in which it operates, does not need to be a full participant in the [p]rogram in order to effectuate the purposes of the [p]rogram”. Due to its size or revenue generation, the “established business” presumably does not need to avail itself of the preference given in such MBE and WBE programs.

As noted in subsection (iv) above, the governing statute in a particular jurisdiction may permit the certifying agency to extend the designation of “minority” to groups and individuals not included in the traditional notions of socioeconomically disadvantaged ethnic and racial groups, often with the caveat that such persons and groups have experienced some sort of historical discrimination with respect to undertaking business opportunities in the subject jurisdiction.

2. Ownership

Any entity seeking designation as an MBE must demonstrate that at least fifty one percent (51%) of the company is owned by one or more economically disadvantaged persons (or, in the case of a publicly held corporation, at least fifty one percent (51%) of all classes of the stock of which is owned by one or more economically disadvantaged minority persons). A minority owner of the applicant firm must show that it possesses the financial wherewithal to acquire and maintain ownership in the entity. Additionally, the minority owner(s) must accept the profits and risks commensurate with its(their) respective ownership in the company.\(^8\)

Additionally, certifying units require that the entity provide proof that its minority owners have some minimum expertise in the particular business sector. Certifying agencies will frequently examine owner biographies and resumes, business plans and other documentation of the company or the owner claiming disadvantage. These items are discussed in more detail in Section II.C below.

3. Control

Control is yet another key component of obtaining MBE status. A firm must show that its minority owner is not an owner in name only. Control is usually divided in two buckets: 1) managerial (such as control over the management of the company and which parties take part in the company’s major business decisions); and 2) operational (specifically, control in the day to day affairs and operations). These two aspects of control will differ by entity type, however as a general matter, certifying agencies will look to the minority owner’s involvement in the company’s daily operations, its ability to take independent and unilateral action on the company’s behalf, and its ability to independently make major decisions for the company.

4. Business Size

The animating principle behind any disadvantaged business enterprise program is the reduction of economic disadvantage. As a result, certifying agencies administering these programs will attempt to ensure that applicant firms seeking MBE designation do, in fact, suffer from economic disadvantage. Certifying agencies often deny eligibility to an entity considered to be an “established business,” that is, an entity whose gross revenues exceed certain threshold over set periods of time. These thresholds will depend on the applicable statute.\(^9\)

\(^8\) *Id.*

5. **Geographical Jurisdiction**

The governing statute will set forth the geographical requirements for the entity seeking MBE designation, usually based on where the primary operations of the company are situated.\(^\text{10}\)

B. **Elements of a WBE Designation**

An entity applying for WBE status must be a small business entity, at least fifty one percent (51%) owned by one or more women or, in the case of a publicly held corporation, fifty one percent (51%) of the stock of which is owned by one or more women, whose management and daily business operations are controlled by one or more women, and which is not an established business.

Similar to the MBE certification process, the certifying agency evaluating the WBE applicant will look to the aforementioned key factors: 1) Female Status; 2) Ownership; 3) Control; 4) Business Size; and 5) Geographical Jurisdiction. Please see Section II.A above for a more detailed discussion of factors 2-5. Please note that most statutes do not define “women” or “female” for purposes of WBE eligibility.

C. **Documentation Required**

In order to demonstrate the above factors of minority/women status, ownership, control, business size and geographical jurisdiction, certifying agencies often require certain documentation from the applicant firm for initial and ongoing certification.

1. **Initial Certification**

A company seeking MBE or WBE status must apply with the appropriate certifying body in order to obtain disadvantaged status. As part of the initial certification, a company will have to provide the following information:

Certification Application (with supporting documentation)

Statement of Social Disadvantage

Document Evidencing Ethnicity/Gender (Resumes, Proof of Citizenship, Driver's License/Passport Copies)

Organizational Documents (Articles of Incorporation, By-laws, Partnership agreements, copies of issued stock certificates, copies of shareholder agreements, minutes of initial and most recent Board of Directors' meetings)

Proof of Contributions/Documentation of Asset Transfers

Financial Information (Financial Statements, Corporate Tax Returns, Bank Account Statements)

Personal Net Worth Statement (for those individuals claiming disadvantaged status, sometimes required for all owners regardless of status)\textsuperscript{11}

Tax Information

Employee and Payroll Information

Franchise Agreements

Property Ownership Documents/Leases

Certification History

Additionally, certifying agencies often conduct individual interviews of principal management officials and/or owners of the companies seeking MBE or WBE status, engage in site visits of the applicant firm’s facilities and solicit information from individuals, organizations and agencies having knowledge of the company, and its management, ownership and proffered areas of specialty or expertise.

2. Ongoing Certification

Once certified, an MBE/WBE requesting continued certification past its applicable certification period must provide ongoing information to the certifying agency in the form of a No Change Affidavit on an annual basis. A firm’s eligibility will lapse if it fails to file the No Change Affidavit.

D. Procurement Opportunities Available for MBE/WBEs

In many jurisdictions there is a stated statutory goal of participation in government procurements with minority and women owned business. In Chicago for example, any contract with the City of Chicago or any governmental entity should have a participation goal of twenty-five percent (25%) MBE participation and four percent (4%) WBE participation.\textsuperscript{12} Further, numerous corporations through their supplier diversity programs set internal MBE/WBE participation goals for their vendor pool. What this means for MBEs and WBEs alike is that there is an opportunity for them to both bid for the contracting opportunity as a direct vendor (provided they have the economic wherewithal and the resources to independently handle the procurement), or in the alternative, MBEs and WBEs have the ability to partner with a prime vendor to fulfill a portion of the particular procurement. In the case of a janitorial contract, a franchisor may bid a contract and sub-contract or joint-venture to provide MBE and/or WBE participation by utilizing one or more of its franchisees; or if they have applicable MBE and/or WBE franchisees, those franchisees may pursue the procurement opportunity independently. In the case of a joint venture or sub-contract, if for example the contract is to clean 100,000 square

\textsuperscript{11} Please note that some certifying agencies impose caps on personal net worth in their respective MBE and/or WBE programs. For example, in 2013, the State of Maryland (via the Maryland Department of Transportation’s Office of Minority Business Enterprise) announced a personal net worth cap of $1,615,663.00 applicable to any disadvantaged owner whose ownership interest in a firm is relied upon for certification in the MBE program and all certification decisions going forward. More information is available at: http://www.mdot.maryland.gov/Office%20of%20Minority%20Business%20Enterprise/ Documents/PNW%20Overview%20revised%201-2013.pdf (last visited June 5, 2013).

An example of a personal net worth statement for MBE/WBE certification can be found at Appendix A.

feet of office space for a fee of $1,000,000.00 per year, an applicable MBE would be responsible for participating in up to $250,000.00 of the contract and a WBE would be responsible for participating in up to $40,000.00 of the contract. With respect to the services that the applicable MBE/WBE provides, they must be services for which the applicable company has received certification to perform (i.e. janitorial services, marketing, consulting, etc.).

Three examples are set forth below where governmental bodies/agencies sought procurement for particular services. The examples set forth both the participation goals and a description of the services being sought by the applicable procuring officers.

Example 1:
San Francisco Bay Area Rapid Transit\(^{13}\)
Contract Description: Design, engineering, manufacturing of lightweight railcars.
Participation Goal: 10% MBE; 12% WBE

Example 2:
City of Chicago\(^{14}\)
Contract Description: Services related to conducting telephone health surveys.
Participation Goal: 25% MBE; 5% WBE

Example 3:
Maryland Department of Health\(^{15}\)
Contract Description: Services related to conducting construction management support
Participation Goal: 17% MBE, 9% WBE

III. DBE/ACDBE DESIGNATION

A. Elements of a DBE Designation

Federal programs receiving funding from the Department of Transportation (“DOT”) are required to adhere to the regulations contained in 49 CFR Part 26 (“Part 26”). Part 26 provides that such programs should aim to award at least ten percent (10%) of available contracts to Disadvantaged Business Enterprises (“DBEs”).

Part 26 defines a DBE as “a for-profit small business concern — (1) that is at least 51 percent owned by one or more individuals who are both socially and economically

\(^{13}\) San Francisco Bay Area Rapid Transit RFP is available at http://www.bart.gov/docs/ecc/04SF-140 Invitation for Proposals.pdf (July 7, 2013 8:13 EST).


disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and (2) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.”

1. **Social and Economic Disadvantage**

   Part 26 offers a rather expansive definition of “social and economic advantage,” even allowing the “recipient” or governmental unit administering the DOT program, to determine this factor on a case-by-case basis.

   Part 26 provides the statutory definition of “social and economic disadvantage”. In relevant part, a socially and economically disadvantaged individual means “any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

   (1) Any individual determined by a recipient to be a socially and economically disadvantaged individual on a case-by-case basis.

   (2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

   (i) “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa;

   (ii) “Hispanic Americans,” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

   (iii) “Native Americans,” which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

   (iv) “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;

   (v) “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

   (vi) Women;

   (vii) Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration (“SBA”), at such time as the SBA designation becomes effective.”

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2. **Ownership**

Any entity seeking designation as an DBE must demonstrate that at least fifty one percent (51%) of the company individuals are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. A disadvantaged owner of the applicant firm must show that it possesses the financial wherewithal to acquire and maintain ownership in the entity. Additionally, each such owner must accept the profits and risks commensurate with its respective ownership in the company. While the ownership and control requirements are basically the same whether you are a MBE/WBE/DBE or ACDBE (as defined in Section IIIB below), because of the size of the procurements in the airport space and the net worth limitations, there seems to be a greater level of scrutiny on those seeking both DBE and ACDBE certification. Procuring bodies in all instances are concerned about fraud and guarding against situations in which those that can qualify for certification may be used as a front for non-minority/disadvantaged owners and/or companies.

Certifying units require that the entity provide proof that those owners whose ownership interest in a firm is relied upon for DBE status have some minimum expertise in the particular business sector. Certifying agencies will frequently examine owner biographies and resumes, business plans and other documentation of the company or the owner claiming disadvantage. These items are discussed in more detail in Section III.C, below.

3. **Control**

Control is another key component of establishing DBE status. A firm must show that its disadvantaged owner on which the firm’s DBE status is dependent is not an owner in name only. Control is usually divided in two buckets: 1) managerial (such as control over the management of the company and which parties take part in the company’s major business decisions); and 2) operational (specifically, control in the day to day affairs and operations). These two aspects of control will differ by entity type, however as a general matter, certifying agencies will look to that owner’s involvement in the company’s daily operations, its ability to take independent and unilateral action on the company’s behalf, and its role in major decisions of the company.

4. **Business Size**

An entity qualifies as a “small business” under Part 26 if its gross receipts, averaged over the firm's previous three fiscal years, do not exceed $22.41 million.\(^{18}\)

5. **Personal Net Worth**

A certifying agency also requires that an owner claiming disadvantaged status have no more than a maximum personal net worth. Under the federal regime, “personal net worth” means the “net value of the assets of an individual remaining after total liabilities are deducted.”\(^{19}\) Furthermore, this metric of social disadvantage does not include “the individual’s

\(^{18}\) 49 C.F.R. § 26.65(b) (2012).

\(^{19}\) 49 C.F.R. § 26.5 (2012).
ownership interest in an applicant or participating DBE firm; or the individual's equity in his or her primary place of residence.\textsuperscript{20} An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.\textsuperscript{21} Part 26 sets the personal net worth limit at $1.32 million.\textsuperscript{22}

B. Elements of an ACDBE Designation

The regulations pertaining to Airport Concession Disadvantaged Business Enterprises ("ACDBEs") are codified under 49 CFR Part 23 ("Part 23"). Part 23 governs the award and administration of concession opportunities to DBEs by airports receiving federal funding from the DOT. Currently, Part 23 provides for an "aspirational" goal of no less than ten percent (10\%) of airport concessions contracts going to ACDBEs.\textsuperscript{23}

Under Part 23, an "ACDBE" means "a concession that is a for-profit small business concern – (1) that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and (2) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it."\textsuperscript{24}

The ACDBE certification process turns on the following: 1) Social and Economic Disadvantage; 2) Ownership; 3) Control; 4) Business Size; and 5) Personal Net Worth.

1. Social and Economic Disadvantage

Part 23 uses a definition of "social and economic disadvantage" identical to that of Part 26.\textsuperscript{25}

2. Ownership

The ownership requirements for an ACDBE are identical to those for a DBE as set forth in A.1.2. above.

3. Control

Control is yet another key component of ACDBE status. A firm must show that its disadvantaged owner on which the firm's ACDBE status is dependent is not an owner in name only. Control is usually divided in two buckets: 1) managerial (such as control over the management of the company and which parties take part in the company's major business

\textsuperscript{20} Id.

\textsuperscript{21} Id.

\textsuperscript{22} Id. The $1.32 million cap became effective as of February 28, 2011 (the previous threshold was $750,000).

\textsuperscript{23} 49 C.F.R. §23.3 (2012).

\textsuperscript{24} 49 C.F.R. §23.3 (2012).

\textsuperscript{25} 49 C.F.R. § 23.33(a) (2012).
decisions); and 2) operational (specifically, control in the day to day affairs and operations). These two aspects of control will differ by entity type, however as a general matter, certifying agencies will look to that owner’s involvement in the company’s daily operations, its ability to take independent and unilateral action on the company’s behalf, and its role in major decisions of the company. The management and control metrics become critically important for those seeking to joint venture to procure concession opportunities in the airport space (a discussion of joint ventures is found later in the paper). Governing bodies scrutinize joint venture relationships in great detail to ensure that the disadvantaged individual is in fact running the business on a day to day basis.

4. **Business Size**

An entity qualifies as a “small business” under Part 23 if its gross receipts, averaged over the firm’s previous three fiscal years, do not exceed $56.42 million.\(^{26}\)

5. **Personal Net Worth**

Any owner claiming disadvantaged status must have a personal net worth less than or equal to $1.32 million.\(^{27}\) This cap on personal net worth specifically excludes: 1) equity in the owner’s primary residence; 2) assets invested in the subject business; 3) assets encumbered or to be encumbered to obtain financing to enter or expand a concessions business (capped at $3.0 million).\(^{28}\)

C. **Documentation Required**

Certifying agencies for DBE/ACDBEs require similar documentation as those localities administering MBE/WBE programs. Jurisdictions often base certification on the uniform certification application\(^{29}\), but may require more information as they deem appropriate. Such information includes:

- Uniform Certification Application (with supporting documentation)
- Statement of Social Disadvantage
- Document Evidencing Ethnicity/Gender (Resumes, Proof of Citizenship, Driver's License/Passport Copies)

\(^{26}\) 49 C.F.R. § 23.33(a)-(b) (2012). The following types of businesses have size standards that differ from the standard set forth in paragraph (a) of 49 C.F.R. § 23.33: (1) Banks and financial institutions: $1 billion in assets; (2) Car rental companies: $75.23 million average annual gross receipts over the firm’s three previous fiscal years, as adjusted by the Department for inflation every two years from April 3, 2009; (3) Pay telephones: 1,500 employees; (4) Automobile dealers: 350 employees.

\(^{27}\) 49 C.F.R. § 23.3 (2012). The $1.32 million cap became effective as of June 20, 2012 (the previous threshold was $750,000).

\(^{28}\) As of June 20, 2012, the $3M exclusion has been suspended indefinitely and new applicants are unable to utilize this exclusion for purposes of net worth determination until further notice.

\(^{29}\) The Uniform Certification application is available at: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=01e4d0f8ddd514034080174af123644&r=PART&n=49y1.0.1.1.20#49:1.0.1.1.20.6.18.6.17 (June 1, 2013). An example is provided at Appendix B.
Organizational Documents (Articles of Incorporation, By-laws, Partnership agreements, copies of issued stock certificates, copies of shareholder agreements, minutes of initial and most recent Board of Directors’ meetings)

Proof of Contributions/Documentation of Asset Transfers

Financial Information (Financial Statements, Corporate Tax Returns, Bank Account Statements)

Personal Net Worth Statement (for those individuals claiming disadvantaged status, sometimes required for all owners regardless of status)

Personal Tax Information

Employee and Payroll Information

Franchise Agreements

Property Ownership Documents/Leases

Certification History

Additionally, certifying agencies may conduct individual interviews of principal management officials and/or owners of the firms seeking DBE or ACDBE status, engage in site visits of the applicant firm’s facilities and solicit information from individuals, organizations and agencies having knowledge of the firm, and its management, ownership and proffered areas of specialty or expertise.

D. Programs/Contracts Available for DBE/ACDBEs

As stated above, where contracting opportunity exists, both a franchisor and a franchisee have an opportunity and the ability to bid on a particular procurement. In the case of the Atlanta bid (Example 1 below), there were numerous opportunities for a brand to bid for a particular space in a food category (i.e. burger, pizza, Asian, smoothie, etc.) and in each instance the participation goal was thirty six percent (36%). For each available space, a franchisor could either bid directly or grant a third party or one of its franchisees the right to bid any individual or multiple locations. For the avoidance of doubt, a franchisee must obtain the right (exclusive or not) from its applicable franchisor to bid a brand in any particular airport.

Example 1:

City of Atlanta – Hartsfield Jackson Atlanta International Airport

Contract Description: Food and Beverage RFP

Participation Goal: 36% ACDBE
Example 2:
Washington, D.C. Metropolitan Area

Contract Description: Flashbutt Welding Services
Participation Goal: 10% DBE

E. Net Worth Requirements to become a ACDBE vs. Net Worth Requirements to become a Franchisee

The competing interests in satisfying minimum franchisee financial requirements for certain brands/companies and complying with the personal net worth caps for disadvantaged business enterprises set forth in ACDBE statutes and regulations present real concerns for these entities.

The same minimum financial metrics used to evaluate a disadvantaged entity’s eligibility for an ACDBE program often foreclose that entity from entering the franchising marketplace in its chosen business segment. Personal net worth thresholds often present the most tangible example of how disadvantaged business enterprises are excluded from participating in these lucrative business opportunities. Several of the nation’s most well-known franchises require a franchisee to demonstrate a minimum net worth of $1.5 million or more. Burger King, Dunkin’ Donuts, Five Guys, Church’s Chicken and Buffalo Wild Wings are just a handful of the food and beverage franchisors employing this minimum financial metric for prospective owners. An ACDBE/DBE would be ineligible for these franchise programs at the outset – as discussed above, the personal net worth of an owner claiming disadvantaged status under the ACDBE/DBE program cannot exceed $1.32 million.

Although entities with disadvantaged business status may be able to exploit franchising opportunities with lower personal net worth standards, these entities must remain extremely vigilant of both sets of requirements if they wish to play in both spaces. For example, an entity may meet the personal net worth requirement to become a franchisee but it must also ensure that its personal net worth does not rise to a level that would endanger its status as an ACDBE/DBE.


31 The basis for net worth determination by a franchisor and a governmental certifying body differs in that an ACDBE may exclude its primary residence and the value of its business from the calculation of its net worth, whereas these amounts may be included in the personal net worth calculation in the franchise model.

IV. AVENUES FOR GROWTH THROUGH MBE/WBE, DBE/ACDBE CERTIFICATION

A. Understanding the Procurement Process

The procurement process involves a request for qualification (“RFQ”) or a request for proposals (“RFP”). Both typically result in a formal, competitive bid process in which the procuring body publicly solicits bids for specific goods or services. The governmental unit (or corporation in the case of a MBE/WBE) issues an RFQ or RFP that sets forth the opportunity, the evaluation criteria, and the minimum qualifications required for bidders. Parties can register with governmental agencies and corporations as applicable to find out about upcoming bidding opportunities. Both governmental agencies and corporations often hold pre-bid conferences to discuss procurement opportunities.

B. Responding to the Request for Proposals

After identifying the particular bid opportunity, the disadvantaged business prepares its bid in accordance with the requirements set forth in the RFP. The RFP will also include a stated participation goal for the MBE/WBE/DBE/ACDBE. Often times, solicitors require that bidders attend pre-bid conferences to gain more information about the bid. Potential bidders also receive opportunities to submit questions to (and receive responses from) the bid solicitor. Submitted bids are evaluated by the solicitor and then awarded accordingly. Upon its award, winning bidders execute the concession contract, which is ultimately approved and executed by the governmental unit or corporation (as applicable).

C. Joint Venture Structures: Requirements and Issues

1. Overview

While a MBE/WBE/DBE may certainly pursue a direct contracting opportunity with the procuring body, joint ventures provide another opportunity for doing business with governmental entities and agencies. Once a concession opportunity becomes available, established brands and companies often join with a MBE/WBE/DBE partner in order to satisfy the participation goals contained in the bid or solicitation. The companies then collectively undertake the bidding process, forming a “joint venture” that will both respond to the RFP and operate the concession upon receipt of the award. The parties often memorialize the key details of the new business relationship in an operating agreement or other contract, depending on the form of entity selected for the joint venture (“Joint Venture”). Procuring bodies often dictate what is acceptable in instances where the respondents wish to joint venture. In the airport arena, the FAA established formal parameters for ACDBEs and Prime companies.

2. FAA Joint Venture Guidelines

In 2008, the FAA promulgated a set of guidelines (the “FAA Joint Venture Guidelines”)33 to help structure arrangements involving established businesses (often referred to as “Primes”) and ACDBEs with respect to doing business in the airports. First, the FAA Joint Venture guidelines defined “joint venture” as “an association of an ACDBE firm and one or more other firms to carry out a single, for-profit business enterprise, with the parties’ combined property,

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capital, efforts, skills and knowledge, and in which the ACDBE partner is responsible for distinct, clearly defined portions of the work of the contract and whose share of the capital contribution, control, management, risk and profits of the joint venture are commensurate with ownership.”

Second, the FAA Joint Venture Guidelines provide that Joint Ventures should operate in accordance with a written agreement.

The FAA Joint Venture Guidelines aim to provide a clear framework for those airport authorities evaluating bid responses from Joint Venture entities. Under the FAA regime, a local airport authority charged with reviewing an RFP submission must review the Joint Venture agreement to ensure that the agreement clearly sets forth each owner’s capital contribution, control/management, risk, profit, ownership and work. Above all, the ACDBE partner must be responsible for a distinct and clearly defined portion of the work in the Joint Venture. The Joint Venture cannot resemble a passive partnership and the ACDBE cannot be a passive partner. In other words, the ACDBE must have “skin in the game” – it must have capital risk and management/control responsibilities. Furthermore, the Joint Venture agreement cannot be prospective in nature – it must be drafted in such a way that the Joint Venture is in full compliance with the FAA Joint Venture Guidelines at the time the Joint Venture agreement is submitted with the total RFP response.

3. Preliminary Considerations for Joint Venture Business Partners

Like any new business, a Joint Venture requires intensive planning. Each party (both the MBE/WBE/DBE and the Prime) must be extremely thoughtful and intentional in its respective selection of the right business partner. There must be a good business fit between the partners (Prime and MBE/WBE/DBE). The MBE/WBE/DBE must be certified in the type of work to be undertaken by the Joint Venture (e.g., an ACDBE participant in a retail joint venture must be certified as an ACDBE retail operator). Each party must assess the skill, knowledge and value each partner brings to the new business venture. Furthermore, the Joint Venture agreement must show that the ACDBE partners’ participation in the Joint Venture will add value and cause the venture to be profitable.

Additionally, once the partners have been chosen, the parties should jointly review the financial requirements of the RFP and collectively determine the financial aspects of the Joint Venture’s business plan. In this vein, it is of utmost important that the MBE/WBE/DBE partner understand the business economic reality of the business venture to fully analyze the proposed financial profitability of the Joint Venture. Partners must also analyze projected cash flow for the concession term and consider start-up capital expenses. Start-up capital costs include:

- Fees for formation of the Joint Venture structure
- Accounting Fees
- Inventory
- Working capital
- Construction costs
- Legal Fees

34 Id. at § 2.1.
35 Id. at § 2.2.
36 Id. at § 2.4.
37 Id. at §§ 2.1-2.2; 2.5.
- Minimal annual rent guarantee (MAG)
- Security deposits
- Training and hiring of employees

4. Developing The Joint Venture Agreement

The procuring body will evaluate the Joint Venture and the Joint Venture agreement through the critical lens of the joint venture principals focusing on the three key elements of ownership, management and control as attributed to the MBE/WBE/DBE. It is important to note that the Joint Venture agreement must speak for itself on all issues of ownership, capital, control and management.

i. Ownership/Capital Contribution

Partners must make capital contributions to the Joint Venture in proportion to their ownership interest. Initial capitalization is crucial – each partner must be able to prove the source of its capital contribution.\(^38\)

Each partner must provide its own capital or obtain a loan from an independent third party (or the Prime) to capitalize its interest in the Venture. The ACDBE must document its source(s) of capital. Financing by the Prime to an ACDBE partner will trigger additional scrutiny under the FAA Joint Venture Guidelines.\(^39\) First, the terms of the loan must be comparable to prevailing market conditions offered by commercial lenders for similar projects. Second, the loan cannot be for 100% of capital requirements.\(^40\) The ACDBE partner must invest at least 10-20% of its resources into the venture business.\(^41\) Third, the loan must be evidenced by a promissory note or loan agreement that clearly outlines the basic terms and conditions of the loan (due date, payment method, interest rate, prepayment penalty, default and collateral).\(^42\) Lastly, the terms of the loan must be full recourse and guaranteed by the ACDBE and or secured by assets outside of the ACDBE’s ownership interest or future profits of the joint venture.\(^43\)

ii. Control

The Prime and the ACDBE partner must exercise control in proportion to their respective ownership interests. The ACDBE must have clear and absolute control over particular aspects of the business.\(^44\) Control is generally demonstrated and exercised by voting power on management committees and participation in making “Major Decisions.”\(^45\) Major Decisions

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\(^38\) Id. at § 3.2.
\(^39\) Id. at § 3.3.
\(^40\) Id.
\(^41\) Id.
\(^42\) Id.
\(^43\) Id.
\(^44\) Id. at § 3.2.
\(^45\) Id.
include certain decisions so integral to Joint Venture operations that they require unanimous consent of the partners (i.e. taking out a company loan).

iii. Management

The Joint Venture partners must clearly determine and clearly set forth the control of the ACDBE in the management structure. Under the FAA Joint Venture Guidelines, the Prime cannot manage the Joint Venture with the ACDBE partner simply along for the ride. The management structure should be developed in accord with the knowledge, experience and skill set of each partner. Put differently, there must be actual hands-on management by each partner and apportionment of management tasks (including overall management, decision making and day to day operations).46

Any management fee should represent a recovery of costs and not a drain on profit for the Joint Venture. The partners must determine and clearly set forth the responsibility of day to day management of each component of the joint venture, including branding, marketing, buying, design layout, and employee training. The management committee may designate an operations manager to run the company’s day to day affairs. All major decisions should be decided by unanimous vote and major decisions must be clearly defined in the Joint Venture agreement. All major decisions should be reflected in the company’s books and records.

D. HUBZone Program (Historically Underutilized Business Zone)

A company that is located in a Historically Underutilized Business Zone (“HUBZone”) may be eligible for additional federal procurement preferences. The HUBZone Program, administered by the U.S. Small Business Administration (“SBA”) is intended to stimulate economic development and creates jobs in urban and rural communities by providing federal contracting assistance and preferences to small businesses located in specified geographic zones. These areas, last updated in May, 2013, include economically challenged census tracts in metropolitan areas, certain economically challenged non-metropolitan counties, some Indian Lands, and certain areas affected by closing of military bases.47 The goal of the federal government is to award 3% of all dollars for federal prime contracts to HUBZone-certified businesses. HUBZone certification is handled by the SBA.

To qualify for HUB Certification, a business must be a Small Business by SBA standards; it must be 51% owned and controlled by US citizens (or a Community Development Corporation48, agricultural cooperative or Indian Tribe); must have its principal office in a HUBZone; and at least 35% of its employees have to live in a HUBZone.49 Size for SBA

46 Id.

47 The map can be found at http://www.sba.gov/content/hubzone-maps (last visited August 14, 2013).

48 According to the SBA, there is no established legal definition for a Community Development Corporation, but it is a community-based non-profit institution under section 501(c)(3) of the Internal Revenue Code and generally provides social services related to affordable housing. See, Stephen Morris, CDCs and CDCs: Community Development Corporations and SBA Certified Development Companies, June 23, 2011. http://www.sba.gov/community-blogs/small-business-cents/cdc-and-cdcs-community-development-corporation (last visited July 15, 2013).

49 See Understanding the HUBZone Program found at http://www.sba.gov/content/understanding-hubzone-program (last visited August 14, 2013).
purposes may relate to either number of employees or revenues. To determine whether an entity is “small” by SBA standards, an applicant must determine the NAICS code(s) that best describe(s) its business and then determine that industry’s size standard from the Table of Small Business Size Standards. The requirements must be maintained in order to maintain certification, once granted.

Benefits of a HUBZone certification include access to competitive and sole source contracting, a 10% price evaluation preference in full and open contract competitions, and subcontracting opportunities. Because many franchisees may qualify as a Small Business, but not be eligible for MBE or WBE or similar designations, a HUBZone certification may be a viable option for those located in these areas.

V. VETERAN AND MILITARY PROGRAMS

Franchisors have increased their focus on military veterans as a means to source franchise candidates and expand their brands by taking advantage of the increased focus on military veteran issues and availability of business programs that provide assistance to military veterans interested in starting their own business or working for a small business. The United States government, as well as banks and businesses, recognize franchising as a means to accommodate the nation’s military veterans returning home unable to find employment at a higher rate than the national unemployment rate, especially those military veterans who are disabled. In fact, the International Franchise Association (“IFA”) recently commented that approximately 4,000 military veterans became franchisees from mid-2012 to mid-2013, increasing the veteran population of some chains as much as eleven percent.

Further, the

50 Id.

51 The North American Industry Classification System (NAICS) is a system used by the Federal government to classify business establishments for statistical purposes. It is described on the official site of the US Census Bureau at http://www.census.gov/eos/www/naics/ (last visited August 14, 2013).

52 The Table of Small Business Size Standards may be accessed at http://www.sba.gov/content/table-small-business-size-standards. (last visited August 14, 2013). Access to supporting documentation, such as how the SBA calculates annual receipts and how the SBA determines number of employees, is through this same site.

53 A sole-source contract implies that there is only one person or company that can provide the contractual services needed and that any attempt to obtain bids would only result in one person or company being available to meet the need. Small Business Chronicle, http://smallbusiness.chron.com/difference-between-single-source-sole-source-contract-32618.html (last visited August 14, 2013).

54 To learn more about the program, go to http://www.sba.gov/hubzone (last visited August 20, 2013).

55 The 2013 unemployment rate for Iraq and Afghanistan veterans is 9.7%, but is much higher for wounded military veterans. Cliff Hocker, Business Opportunities for Wounded Warriors, Black Enterprise, Dec. 2012, at 58. “Of the 205,000 veterans who have served since 9/11, 9.5 percent are unemployed, according to the U.S. Bureau of Labor Statistics. That’s 2 percentage points higher than the 7.5 percent national unemployment rate.” See also, More Help for Veterans that Want to Purchase Franchises, http://www.thefranchiseking.com/help-for-veterans-that-want-to-purchase-franchises (last visited May 25, 2013).

SBA estimates that 2.4 million, or 9%, of small businesses are veteran-owned, and that number will rise dramatically as more than 1 million veterans are expected to transition out of military service by 2015. This portion of the paper will explore what programs are available to military veterans, how they may be utilized to increase diversity and the franchisor’s pool of candidates, the impact of such programs on profitability and the pitfalls associated with developing veteran-based franchising programs.

A. Programs Targeting Veterans

1. Proposed Legislation

During the past 3 years, there have been two bills proposed at the federal level to promote veteran ownership of franchises or employment by franchisees by including tax benefits to the franchisee. The first bill, the “Help Veterans Own Franchises Act”, is legislation proposed by Senators Bob Casey and Marco Rubio and is currently being reviewed by the Senate Finance Committee. The bill proposes to amend the Internal Revenue Code to provide a tax credit of 25% of the up-front franchise fees if the franchise is 100% veteran-owned.

The second bill, the “Franchise Education for Veterans Act of 2013”, was proposed by Senator Moran and Congressman Griffin. It is currently being reviewed by the Senate Committee on Veterans Affairs. This bill proposes to allow non-active duty, military veterans the opportunity to utilize the educational benefits provided by the Bureau for Veterans Affairs to attend and complete franchise training programs in the same manner as traditional educational programs. To receive compensation, the training program must not exceed 12 months, and only certain expenses are eligible.

Both bills appear to be a slimmer, less robust version of the American Growth, Recovery, Empowerment and Entrepreneurship Act, or AGREE Act, introduced by Sen. Chris Coons and Sen. Marco Rubio in November 2012. The IFA supported the AGREE Act, which included the 25% tax credit included in the current “Help Veterans Own Franchises Act”, as well as other tax incentives, changes to visa requirements, and research credits. The AGREE Act did not become law at the end of the 112th Congress, thus is it currently a dead bill.

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58 The Help Veterans Own Franchises Act was first introduced on September 12, 2011 to create a tax credit for veterans or their spouses who purchase a franchise. The bill has been reintroduced several times, and is now S. 1015. S. 1015, 113th Cong. (2013).


60 The military veteran has the option of choosing the lesser of $15,000 or eligible expenses, which are defined as: (i) fees charged for the training, (ii) monthly housing stipend, and (iii) monthly stipend of $83. S. 938, 113th Cong. (2013).

61 The AGREE Act included the following:
   - a tax credit equal to 25% of qualified franchise fees up to $100,000;
   - a three year extension of 100 percent bonus depreciation for the full cost of qualified investments such as equipment and property;
   - a three year extension of Section 179 expensing levels for small businesses;
   - a three year extension of eliminated taxes on certain small business stock;
2. VetFran

The IFA’s most prominent military veteran support vehicle is VetFran, which was created in 1991 in order to help soldiers returning from the Persian Gulf War get into business. VetFran is endorsed by the U.S. Dept. of Veterans Affairs, and has a partnership with VA’s Center for Veterans Enterprise. Through VetFran, IFA member companies offer financial incentives, training and mentoring to veterans, both leading to franchise ownership and to employment in franchising.

Since the creation of VetFran, the IFA has introduced other initiatives to focus on franchising to veterans, such as “Operation Enduring Opportunity”, which was launched in November 2011 in response to veterans that need to transition into the civilian work force returning from deployment in Iraq, Afghanistan and Southwest Asia. The IFA’s President and CEO, Steven Caldeira, recently commented that franchising is a good match for military veterans, although this statement is not without controversy, as we discuss below.

3. Small Business Administration

As of September 30, 2012, the SBA had backed more than 3,200 loans to veterans worth more than $1.25 billion. However, the SBA does more than guarantee loans; it also provides business training, assistance with federal procurement programs and mentoring through the SBA's Office of Veterans Business Development.

In May 2013, the SBA launched the SBA Veteran Pledge Initiative, a commitment by 20 of the largest banking institutions and trade associations including Bank of America, JPMorgan Chase, Citigroup, TD Bank, the National Association of Development Companies (“NADCO”), the National Association of Government Guaranteed Lenders (“NAGGL”), and other regional lenders to increase their lending activity to military veterans by 5% per year over the next five years. The SBA Veteran Pledge Initiative is a part of the SBA’s recently launched Operation

- an Extension of the Research & Development tax credit until 2013, increases the Alternative Simplified Credit (ASC) from 14 percent to 20 percent, and makes the ASC permanent;
- establishment of an enhanced research credit for domestic manufacturers to encourage job creation at home; and
- elimination of the per-country numerical limitation for employment-based immigrant visas and adjusts the limitations on family based visa petitions from 7% per country to 15%.

“Qualified” fees are any “one-time fee required by the franchisor when entering into a franchise agreement with a veteran as the franchisee.” [H.R. 3476, 112th Cong. (2011)].

62 Miller, supra note 56.
Boots to Business: From Service to Startup initiative, which was created in partnership with the U.S. Department of Veterans Affairs and the U.S. Department of Defense as a way to help veterans transition back into civilian life. The SBA and its regional lending partners expect to assist an additional 2,000 veterans with $475 million of capital to start or expand small businesses.

The SBA has also developed a partnership with NADCO to offer a program called "VetLoan Advantage" that provides small business financing discounts, rebates on commercial real estate, working capital SBA loans and training to military veterans. VetLoan Advantage provides a cash rebate and other incentives of up to $15,000 for SBA real estate advantage (504) loans (real loans) and community advantage working capital loans to enable veterans to own commercial real estate and finance small businesses like franchises. During the first four months of 2013, NADCO claims that 381 military veterans received loans totaling $260 million.

Finally, the SBA offers Patriot Express loans up to $500,000 to military personnel and their spouses for startups, expansion and equipment purchases. The SBA claims that since the Patriot Express loans were launched in 2007, it has provided more than $560 million in loan guarantees. The Patriot Express loan is an SBA 7(a) loan offered to businesses in which 51 percent or more of the business is owned or controlled by eligible veterans and members of the military community who want to establish or expand a small business. According to the SBA’s website, eligible military community members include veterans, service-disabled veterans, active-duty service members eligible for the military’s Transition Assistance Program, Reservists and National Guard members, current spouses of any eligible military community members, or widowed spouses of service members or veterans who died during service or of a service-connected disability. Patriot Express loans have a maximum dollar amount of $500,000, and can be used for any of the same purposes as an SBA 7(a) loan, such as start-up, expansion, equipment purchases, permanent working capital, and inventory or business-occupied real estate purchases. No collateral is required for loans or lines of credit under $25,000, and for loans above $350,000, the collateral value must be at least equal to the loan amount. Patriot Express also offers a revolving line of credit that can be used to obtain working capital, which must be repaid as the lender dictates. Statistics regarding the success of this program were

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68 Kulikowski, *supra*, note 57.

69 NADCO is the national trade association for non-profit companies that have been certified by the SBA to provide financing for small businesses under the SBA’s 504 loan program. *Id.* A list of regional banks that are part of NADCO and the incentives they offer is included in Appendix C.


72 Credit Union Times & CUT *BreakingNews, Mazuma Approves First Patriot Loan* (Feb. 23, 2011).


74 *Id.*
not available as of this writing, but some have questioned the efficacy of the program due to the personal guarantee the SBA requires.  

4. Business Education

In addition to loan guarantees, the SBA also has created the Entrepreneurship Bootcamp for Veterans with Disabilities in partnership with the University of California, Los Angeles; Syracuse University; Texas A&M University; Florida State University; Purdue University; University of Connecticut; Cornell University; and Louisiana State University. The program is designed to help military veterans with disabilities develop skills that are needed to launch and grow a small business. Now in its fourth year, the program also provides training on how disabled vets can start and grow a small business. Since 2009, the first year SBA partnered with Syracuse University, 434 service-disabled veterans have participated in the program. About seven other universities participate in the program.

Another helpful resource for veterans is the Service Corps of Retired Executives, or “SCORE”, Veteran Fast Launch Initiative, which provides scholarships for veteran small-business owners to attend SCORE workshops and seminars. This initiative began in 2011 as part of the White House’s Joining Forces campaign. SCORE, which is part of the SBA, provides mentoring to small business owners through nationwide chapters and volunteer mentors.

VetFran, described above, provides business education through its Toolkit, which includes a Franchising 101 online course, a finance assessment, a workbook for prospective franchise owners, and partner links. It also offers a mentor network, where veterans can get advice from experienced franchise professionals.

Other noteworthy educational programs offered to military veterans are: (1) the Veterans Business Outreach Program (“VBOP”), which offers business training, counseling and mentoring; and (2) The Entrepreneur's Source, Inc., which provides business assistance, advisory and consulting services in the field of franchising and business ownership to military veterans and their families.

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75 Shaun, *So, Has the SBA Failed Us?* www.forbes.com, February 13, 2013 at 1:07 p.m. (last visited August 19, 2013). The author claims Patriot Express loans require the veteran to personally guarantee 30% of the loan amount in cash during the life of the loan. Wells Fargo does require, for any Patriot Express loan obtained through their bank, a personal guarantee with “adequate” collateral for anyone owning 20% or more of the franchise. SBA Patriot Express loan, available at https://www.wellsfargo.com/biz/loans_lines/sba/patriot_express/ (last visited August 19, 2013).

76 Syracuse University’s Whitman School of Management in New York was the first to offer the program for veterans disabled as a result of their military service since Sept. 11, 2001. Kulikowski, *supra*, note 57.

77 SCORE is a non-profit association of more than 13,000 business counselors throughout the United States and its territories. The counselors are trained to mentor and counsel aspiring business entrepreneurs. It is composed of 348 chapters in urban, suburban and rural communities. SCORE provides advice online, at local offices through meetings and workshops, and business e-newsletters. SBA.gov, “SCORE” and Kulikowski, *supra*, note 57.


5. **Private Lenders**

Private lenders are also creating special lending programs for military veterans. TD Bank, in particular, is piloting a lending program in partnership with the IFA, Dunkin' Donuts, Domino's Pizza, Baskin-Robbins and Papa Murphy's. This lending program, through SBA loans offered by TD Bank, offers access to a streamlined loan application process, a packaging fee waiver and lower interest rates to start franchises with the program participants. As part of the pilot program, TD Bank is also taking affirmative steps to employ and advance in employment, qualified veterans with disabilities, recently separated veterans, and/or other eligible veterans.

Another organization that provides military veterans access to capital is the Veterans Business Fund, a not-for-profit organization established by BoeFly in conjunction with the IFA, SCORE, Sun Trust Bank and others. The Veterans Business Fund was created to provide financial assistance to veterans in response to the high unemployment rate among veterans, many of whom lack sufficient equity capital to qualify for a small-business loan.

The phenomenon of “crowdfunding” has also impacted lending to military veterans. For example, Sprigster's Boost a Hero crowdfunding for military veterans and spouses was created to raise funds for military veterans that would like to own their own business. Crowdfunding enables friends, family and strangers to donate funds to support a cause online.

6. **Franchisor Incentives/Programs**

The incentives offered by franchisors to encourage franchise ownership by military veterans, their families and spouses are many and varied. Three franchisors gave away franchises by waiving the initial license fees. For example, Signal 88 gave away a Signal 88 franchise to the winner of a five-month essay contest called “Operation American Dream: From Battlefield to Boss”. CruiseOne will give away a travel franchise in the “Operation Vetrepreneur: Become Your Own General” contest, with five deserving veterans each receiving a CruiseOne travel franchise. Unishippers Global Logistics, LLC, a small package and freight shipping reseller, will award a military veteran a free national franchise.

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83. BoeFly is an online marketplace connecting small-business owners with lenders. Kulikowski, supra note 57.

84. The Easley Progress, Veterans Growing as Entrepreneurs (Dec. 28, 2012).

85. To enter, applicants submitted a 500-word essay on why they want to open a business to signal88.com/OperationAmericanDream. A winner was chosen monthly, with each deadline on the 15th of the month, starting on January 15, 2013. At the end of each month, Signal 88 selected three finalists and the public selected, via the Signal 88 website, a winner, who then is eligible for the grand prize. Omaha World-Herald, Essay Contest Gives Veterans Path to Fulfill a Dream (Jan. 8, 2013).


Giving away the franchise, however, is a rarity - the most popular incentives are a combination of waiver or reduction of the initial franchise fee, reduction of ongoing royalty payments, some form of financing, and training or support. For example, news reports for 2012 and 2013 reveal that the following franchisors offered waiver or reduction of the initial franchise fee, which is sometimes characterized as “franchise fees”: RE/MAX, FASTSIGNS, Interim HealthCare, Valpak, Benningan’s, Dickey’s Barbecue, Postal Connections of America, Keepsake Companions, HomeTeam, KidzArt/Art Innovators, The Dwyer Group, Matco Tools, Re-Bath(R), ServiceMaster Clean, Brightway, WIN Home Inspection.


FASTSIGNS offers all veterans that choose to become FASTSIGNS franchisees a 50 percent reduced franchise fee of $18,250. Press Release, FASTSIGNS Earns Recognition for Veteran Recruitment Initiatives; Only Sign & Graphics Franchise Included on 2013 Military Friendly Franchise List (May 30, 2013).

Interim HealthCare waives the franchise fee for the first qualifying military veteran joining the franchise network this year. Professional Services Close-Up, Interim HealthCare Cancels Franchise Fee for Veterans (May 28, 2013).


Benningan’s will waive its franchise fee for all qualified and honorably discharged veterans. Entertainment Close-Up, International Foodservice Manufacturers Association Taps Bennigan’s CEO Mangiamele as a Silver Plate Award Finalist (Feb. 19, 2013).


Postal Connections of America offers a 50 percent discount off its franchise fee. PR Newswire, Franchise Seeks Veterans with a 50% Discount; Postal Connections Finds Military Experience Helps Operate Successful Stores (Jan. 22, 2013).

Keepsake Companions grants veterans a 25 percent discount off the initial franchise fee. PR Newswire, Keepsake Companions in Home Care Franchise Offers Special Incentive to Vets (May 23, 2013).

HomeTeam offers 25% off the initial franchise fee (up to a $10,000 value) to military veterans. PR Newswire, HomeTeam Inspection Service Named 2013 Military Friendly Franchise (May 22, 2013).

KidzArt waives the franchise fee for qualified service members. PR Newswire, KidzArt/Art Innovators Named 2013 Military Friendly Franchise (May 20, 2013).


Matco Tools offers service members a $10,000 incentive toward “start up costs”. PR Newswire, Matco Tools Named Among Best Franchises for Veterans in 2013 (May 15, 2013).

Re-Bath offers veterans a 50% discount off the population portion of the franchise fee. PR Newswire, Re-Bath Named 2013 Military Friendly Franchise (May 15, 2013).


Wellness\textsuperscript{104}, Baskin-Robbins\textsuperscript{105}, Hungry Howie’s Pizza\textsuperscript{106}, Subway\textsuperscript{107}, Vanguard Cleaning Systems\textsuperscript{108}, Team LogicIt\textsuperscript{109}, 7-Eleven\textsuperscript{110}, The UPS Store\textsuperscript{111}, Maaco\textsuperscript{112}, CiCi’s Pizza\textsuperscript{113}, Instant Imprints\textsuperscript{114}, Kahala Franchising\textsuperscript{115}, Snap-on Tools\textsuperscript{116}, and Valpak\textsuperscript{117}.

\textsuperscript{103} WIN offers service members a discount of 10\% off the franchise fee, and each quarter WIN chooses up to five veterans as recipients of their “WIN for America” initiative, and waives the franchise fee for those that qualify. PR Newswire, Is the Real Estate Upswing a Reality?, http://www.prnewswire.com/news-releases/is-the-real-estate-upswing-a-reality-200415851.html (last visited July 29, 2013).


\textsuperscript{107} Subway waives the franchise fee for any honorably discharged veteran who wishes to open a Subway restaurant on a government or military installation. Similarly, if a veteran wishes to open a Subway restaurant at any non-military or non-government locations, they can get the franchise fees reduced by 50 percent. Press Release, SUBWAY® Restaurants Launches National Program Honoring Veterans; Sandwich Chain Teams Up with Wounded Warrior Project® (Nov. 7, 2012), available at http://www.franchising.com/subway/news.html (last visited August 19, 2013).


7. Military/Veteran/Spouse Employment Programs

As previously discussed, unemployment rates among military veterans, especially disabled military veterans, exceeds the national unemployment rate. Steven Caldiera, the CEO of the IFA, recently said:

“With the war in Iraq over and the war in Afghanistan drawing to a close and more than one million service members are projected to leave the military in the next several years, franchise businesses have realized that hiring our veterans, military spouses and wounded warriors is not only the right thing to do, but it makes good business sense...With its rapid training opportunities, scalability, and need for operational execution and excellence in following proven systems, franchising provides an ideal structure to enable returning veterans to become leaders of and productive participants in the U.S. economy.”

In response to the high unemployment rate of military veterans, the White House created the Joining Forces initiative in 2011. Since the initiative was launched, 290,000 veterans and military spouses have been hired or trained. In May 2013, the First Lady has encouraged all businesses to “think out of the box” and help military veterans “reach their full potential within your companies”. The goal of the initiative is to hire or train 435,000 veterans or military spouses hired by 2018.

The U.S. Chamber of Commerce has also created the “Hiring Our Heroes” Award for Small Business Veteran and Military Spouse Employment to promote the hiring of military veterans and their spouses. One franchisor, Edible Arrangements, recently announced...
"Hero's Welcome," a campaign designed to hire at least 1,000 military veterans in franchise locations nationwide and provide incentives for veterans to purchase franchises.\textsuperscript{122}

B. Federal and State Procurement Programs

To promote veteran-owned businesses, the federal government has created set-aside programs through the “Veteran-Owned Small Business Verification Program”. That program provides special designations for service-disabled, veteran owned small businesses, also called “SDVOSBs” or “VOSBs”, to contract directly with the Department of Veterans Affairs (the “VA”) for set-aside\textsuperscript{123} and sole source contracts.\textsuperscript{124} This program is also called the “Veterans First Contracting Program”. The VA will then use these designations to give priority to those businesses having the SDVOSB or VOSB designation\textsuperscript{125}, and list those businesses on the “Vendor Information Pages (VIP)” database, which the VA uses to locate eligible contractors.\textsuperscript{126} To qualify, eligible business owners must first be verified, and the process is not simple. In fact, the VA states that in 2012, 58 percent of the applicants were denied.\textsuperscript{127} The applicant must, among other things\textsuperscript{128}, be deemed a “service disabled veteran”, which is someone possessing a disability rating letter issued by the VA or a disability determination from the Department of Defense. The business must be at least 51% owned by a service disabled veteran, and


\textsuperscript{123} A “set aside” is the requirement that a federal agency allocate 23% of their purchases to specific businesses. The Vet-Biz Resource Center states that percentage is allocated as follows:
- 3% or more for service-disabled veteran-owned businesses
- 5% or more for veteran-owned small businesses
- 5% or more for 8(a) small businesses
- 5% or more for HUBZone businesses
- 3% or more for women-owned businesses
http://www.vetbizresourcecenter.com/certification/Set-Aside_Programs.html (last visited August 19, 2013),


\textsuperscript{125} In order of priority, the VA will award to the following: SDVOB, VOSB, followed by 8(a), HUBZone, Woman-Owned Small Business, then all other Small Businesses. www.va.gov, “Veteran-Owned Small Business Verification Program”, citing Public Law (P.L.) 109-461 “Veterans Benefits, Health Care, and Information Technology Act of 2006”


\textsuperscript{128} The applicant also must submit the following: Financial statements; Federal personal and business tax returns; personal history statements; and Request for Copy or Transcript of Tax Form (IRS Form 4506) for up to 3 years. Other documents, which may be reviewed include (if applicable): Articles of Incorporation/Organization; corporate by-laws or operating agreements; organizational, annual and board/member meeting records; stock ledgers and certificates; State-issued Certificates of Good Standing; contract, lease and loan agreements; payroll records; bank account signature cards; and licenses. 38 C.F.R. 74 RIN 2900-AM78 “VA Veteran-Owned Small Business Verification Guidelines”, Sec. 74.12, p. 9.
management or daily business operations must be either controlled by the service disabled veteran or their permanent caregiver or spouse. 129

California has a similar program called “Disabled Veteran Business Enterprise”, which designates at least three percent of the state’s overall annual contract dollars to certified disabled veterans. 130 The program provides a “SB/DVBE Option” process that allows the state agency to contract directly with the certified DVBE for goods, services, information technology and public works projects valued in excess of $5,000 and as much as $250,000. 131 The certification requirements for the California program appear to be less stringent than the federal program, particularly in control of daily business operations. 132 Only California appears to have a specific set-aside goal for disabled veterans. 133

We mention California specifically here, but other states offer benefits to military veterans. Those benefits range from educational grants and scholarships to discounts on fees, taxes and loans. What is important to note is that each state, through its department of veterans affairs or similar agency, manages its own programs, and thus the qualifications needed and the processes can vary. 134

C. Franchisor/Franchisee Eligibility

As you can see from the foregoing sections, the qualification that is omnipresent is for the franchisee to be a military veteran or the spouse of a military veteran. Military veteran is defined by the federal government as a person “who served on active duty with the U.S. Army, Air Force, Navy, Marine Corps or Coast Guard, for any length of time and at any place and who was discharged or released under conditions other than dishonorable”, including “[r]eservists or members of the National Guard called to Federal active duty”. 135

129 Reservists and members of the National Guard who are service disabled, or the surviving spouse of the service disabled, are also eligible. 38 C.F.R. 74 RIN 2900-AM78 “VA Veteran-Owned Small Business Verification Guidelines”, Sec. 74.1, p. 2-3.

130 Certified disabled veterans must be a veteran of the U.S. military, have a service-connected disability of 10% or more, and reside in California. In the case of a business entity, it must be at least 51% owned by a disabled military veteran, and the “daily business operations” must be controlled by one or more veterans. See Programs and Services, “Disabled Veteran Business Enterprise (DVBE) Certification Eligibility Requirements”. http://www.dgs.ca.gov/pd/Programs/OSDS/DVBEEligibilityBenefits.aspx (last visited August 19, 2013).

131 Effective on January 12, 2012, the maximum thresholds were $250,000 for goods, services or information technology, and $270,000 for public works.

132 The federal government is very specific that control means “both the strategic policy setting exercised by boards of directors and the day-to-day management and administration of business operations.”, including that the veteran must possess the “requisite management capabilities”, by demonstrating ultimate “managerial and supervisory control” over any employees who have the required licenses or technical expertise needed for the business. 38 C.F.R. 74 Department of Veterans Affairs, “Veteran-Owned Small Business Verification Guidelines”, Part 74 – Veterans Small Business Regulations, Sec. 74.4(b) and (c), p. 6.


Programs targeting qualified disabled military veterans require the disability to be documented through a disability rating letter issued by the Department of Veterans Affairs or Department of Defense, and establishing a disability rating of between 0 and 100 percent. The disability should be an injury or disease that the military veteran obtained or aggravated during active duty or training (whether active or inactive duty), rendering the military veteran at least ten percent disabled. Medical evidence must be submitted to prove the disability, although there is a presumed disability for certain military veterans.

Little Caesars provides a good example of how the eligibility criteria can be utilized to encourage franchise ownership by military veterans. Specifically, Little Caesars requires the military veteran to submit a VA Rating Letter (or DD214). If the military veteran is qualified, Little Caesars provides a reduction in the initial franchise fee, financing benefits and a credit on the equipment order. The value of these benefits may total up to $68,000 if the military veteran is service-disabled.

Another consideration for qualifying military veterans is to create a system that allows for special circumstances facing military veterans. The military veteran who may be interested in franchising may be overseas or, in the case of a reservist, called to duty after franchising the business. A recent article demonstrates how 1-800-Got-Junk sourced a franchise candidate through the VetFran program, and was able to sell a franchise to the candidate, a military reservist, while he was present in Afghanistan.

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136 *Id.* at p. 3.
138 The military veteran is eligible for compensation based upon the rating of disability, including additional amounts for (1) severe disability or loss of limb; (2) spouse, children or dependent parents; or (3) seriously disabled spouse. The ratings are not additive, but combined based upon a specific calculation provided by the Department of Veterans Affairs. “Benefit Rates” [http://www.benefits.va.gov/COMPENSATION/rates-index.asp](http://www.benefits.va.gov/COMPENSATION/rates-index.asp) (last visited August 19, 2013).
139 Conditions that have a presumption of disability are: (1) Former prisoners of war; (2) Veterans who have certain chronic or tropical diseases that become evident within a specific period of time after discharge from service; (3) Veterans who were exposed to ionizing radiation, mustard gas, or Lewisite while in service; (4) Veterans who were exposed to certain herbicides, such as by serving in Vietnam; (5) Veterans who served in Southwest Asia during the Gulf War. “Presumed Disability” [http://www.benefits.va.gov/COMPENSATION/types-disability.asp](http://www.benefits.va.gov/COMPENSATION/types-disability.asp) (last visited August 19, 2013).
141 If the military veteran is honorably discharged and qualified, Little Caesars gives: a $5,000 reduction of the franchising fee, financing benefits and, a $5,000 credit on the equipment order for the first store. If the military veteran is “service-disabled”, Little Caesars gives the following, which it claims can be as much as $68,000 in benefits: waived franchising fee ($20,000), additional financing options and benefits, a $10,000 credit on the initial equipment order and grand opening marketing support from leading national companies. “Veterans Program” [http://franchise.littlecaesars.com/VeteransProgram/VeteransProgramInformation.aspx](http://franchise.littlecaesars.com/VeteransProgram/VeteransProgramInformation.aspx) (last visited August 19, 2013).
D. Impact of Current Brand and Industry Veterans Programs on System Growth/Profitability and Franchisee Performance

In 2011, Price Waterhouse Coopers (“PWC”) prepared a study of the direct, indirect and induced economic impact of veteran-owned franchises. The study measured impact in these three areas based on jobs and labor income. Additionally, direct impact was measured by gross domestic product (“GDP”) within the veteran-owned franchises, indirect impact by GDP occurring within the supply chain of the franchise, and induced impact by GDP resulting from household spending income resulting from the franchise (directly or indirectly). The study found that more than fifty percent of small business owned by military veterans were franchised, and that in 2007, those businesses provided 815,000 full and part-time jobs, $24.2 billion in labor income (including wages, salaries, benefits and owner compensation), $139.3 billion in revenues and GDP of $41.6 billion. The largest direct impact of military veterans occurred in the retail, accommodation and food services industries, accounting for fifty percent of the GDP. PWC estimates that military veterans indirectly provided more than 1.5 million full and part-time jobs, $59.1 billion in labor income and $100.7 billion in GDP, or 0.8% of the United States’ GDP.

Based on the PWC study and the IFA’s projection of 2.4 million military veteran-owned franchises, by next year military veterans could represent approximately $1.5 trillion of the GDP, or twenty-three percent. Are military veteran-owned franchises are generating enough revenue to yield the franchisor a good return on investment? According to the PWC study, the military veteran-owned franchises they studied generated an average of $2,102,066 in revenues. Depending upon the royalty rate, advertising fees, and other revenues a franchise system may derive from other franchisee segments, less the cost of doing business, increasing efforts to franchise to military veterans could impact a franchisor’s bottom line.

Franchising to military veterans is not, however, without controversy. One commentator recently wrote that military veterans who franchise only profit approximately $64,000. She notes, however, that three quarters of military veterans only franchise a single unit, most likely due to lower financial wherewithal. These single-unit franchisees may be less profitable because they cannot take advantage of the economies of scale that accompany a multi-unit franchisee. Despite lower profitability, Tice notes that military veterans are more satisfied with their business than other franchisees. Military veterans appear to be most satisfied in the

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144 Id. at page 8.
145 Id. at page 9.
146 Retail trade industries accounted for $10,159 of GDP, and accommodation and food services accounted for $11,589. Id. at page 11, Table 5.
147 Assumptions are that GDP growth remains flat and the proportion of military veteran-owned franchises increases at the IFA’s projected rate. Conversation with Mike Weaver, July 29, 2013.
148 Price Waterhouse Coopers, supra note 143, Table 5, page 10.
150 Out of nine “satisfaction benchmarks”, veterans gave franchising a higher score than other franchisees in every case. Tice states that might be because “not having a sergeant barking orders at them anymore makes it all worthwhile.” Id.
areas of marketing and promotional programs, effective use of technology, training and support programs, system-wide communications, and overall enjoyment running the business.\footnote{Uncredited, \textit{Top Franchises for Veterans 2012}, Franchise Business Review, www.franchisebusinessreview.com (last visited August 13, 2013).} This is not the case with Matco Tools, which, although voted one of the best franchises for military veterans, has received extensive negative feedback on its military veteran program from its franchisees who are military veterans.\footnote{See, Carol Tice, \textit{Franchise Chains Recruit Veterans. But Is That A Good Thing?} June 12, 2012 at 11:17 a.m., www.Forbes.com (last visited August 13, 2013).}

VI. WOMEN IN FRANCHISING

A. Women-Owned Business and Entrepreneurship

Recent studies indicate that between 6.6 million and 8 million women-owned businesses in the US contribute between $1.2 trillion and $3 trillion to the US economy.\footnote{See, \textit{e.g.}, Jenna Goudreau \textit{Leaning In: The 10 Fastest-Growing Women-Owned Businesses}, which reports the results of a study by American Express OPEN (http://www.entrepreneur.com/article/226564 May 2, 2013); and statistics provided by the National Women’s Business Council (http://www.nwbc.gov.facts). \textit{See also}, reported results of a study by the Center for Women’s Business Research, reported at http://www.nwbc.gov/research/economic-impact-women-owned-businesses-united-states (sites all last visited July 26, 2013).} According to the National Women’s Business Council (“NWBC”), a non-partisan federal advisory council,\footnote{The National Women’s Business Council describes itself as “Advisors to the President, Congress, and the SBA” on economic issues of importance to women business owners. The chair is appointed by the President, 8 women business owners or chief executives (half in the President’s party and half not) and 6 representatives of nationally-recognized women’s business organizations. See http://www.nwbc.gov/about-the-nwbc (last visited July 26, 2013).} nearly a million of these businesses are owned by African American women, more than three-quarters of a million by Hispanic women, approximately a half million by Asian women and nearly 100,000 by women military veterans.\footnote{See http://www.nwbc.gov/facts (last visited July 26, 2013).} As many as 88.3% are classified as non-employer firms, while the remaining 11.7% have paid employees, employing in excess of 7.6 million people.\footnote{See http://www.nwbc.gov/facts/women-owned-businesses (last visited July 26, 2013).} While all these studies show significant growth in all categories, there is still a great deal of room for growth of women in franchising, particularly in high-earning industries, where women-owned businesses may be underrepresented, according to the NWBC.

B. Woman-Owned Small Business (WOSB) Programs

Many, but not all, women-owned businesses are small businesses that may qualify for the MBE and/or WBE designation described earlier in this paper, so they (or their franchisors) are able to take advantage of the preferences offered to MBEs or WBEs. In addition to those designations, recent federal legislation has expanded federal contracting opportunities for women-owned businesses. The Women-Owned Small Business (“WOSB”) Program became

\begin{footnotesize}
\begin{itemize}
\item[\footnote{See, Carol Tice, \textit{Franchise Chains Recruit Veterans. But Is That A Good Thing?} June 12, 2012 at 11:17 a.m., www.Forbes.com (last visited August 13, 2013).}]{152}
\item[\footnote{See, \textit{e.g.}, Jenna Goudreau \textit{Leaning In: The 10 Fastest-Growing Women-Owned Businesses}, which reports the results of a study by American Express OPEN (http://www.entrepreneur.com/article/226564 May 2, 2013); and statistics provided by the National Women’s Business Council (http://www.nwbc.gov.facts). \textit{See also}, reported results of a study by the Center for Women’s Business Research, reported at http://www.nwbc.gov/research/economic-impact-women-owned-businesses-united-states (sites all last visited July 26, 2013).}]{153}
\item[\footnote{The National Women’s Business Council describes itself as “Advisors to the President, Congress, and the SBA” on economic issues of importance to women business owners. The chair is appointed by the President, 8 women business owners or chief executives (half in the President’s party and half not) and 6 representatives of nationally-recognized women’s business organizations. See http://www.nwbc.gov/about-the-nwbc (last visited July 26, 2013).}]{154}
\item[\footnote{See http://www.nwbc.gov/facts (last visited July 26, 2013).}]{155}
\item[\footnote{See http://www.nwbc.gov/facts/women-owned-businesses (last visited July 26, 2013).}]{156}
\end{itemize}
\end{footnotesize}
effective in the Federal Acquisition Regulations on April 1, 2011.\footnote{157} Under the National Defense Authorization Act of 2013, the Program was expanded.\footnote{158}

A WOSB is one which is at least 51 percent owned and controlled by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock is owned by one or more women, and whose management and daily business operations are controlled by one or more women. The program requires US citizenship and qualification as a Small Business under SBA regulations. An economically-disadvantaged WOSB is eligible for EDWOSB designation. The federal government has established a government wide goal for participation by small businesses owned and controlled by women at not less than 5 percent of the total value (more than $400 billion annually) of all prime contract and subcontract awards for each fiscal year.\footnote{159}

Under the WOSB program, the SBA identifies certain North American Industry Classification Systems (“NAICS”) codes in which WOSBs are substantially underrepresented. Contracting agencies can then create set-asides for WOSBs or EDWOSBs in these industries.\footnote{160} Prior to the 2013 legislation, WOSB and EDWOSB contracts were limited to $6.5 million for manufacturing and other contracts to $4 million.\footnote{161} The 2013 legislation removed those limits. The program permits eligible companies to self-certify as part of the bidding process or companies may obtain third-party certification.\footnote{162}

WOSB programs can have a big impact on women-owned businesses. According to the Office of Small Business Programs at the Department of Defense (“DoD”), the DoD itself awards nearly $2 billion in prime contracts and $2.4 billion in subcontracts to WOSBs.\footnote{163} The DoD program also provides outreach, training and technical assistance to increase accessibility to its procurement opportunities.\footnote{164} The Department of Homeland Security has its own WOSB program, which includes providing assistance to WOSBs to learn about doing business with the department. Its Office of Small and Disadvantaged Business Utilization provides information to WOSBs on available contracting and subtracting opportunities.\footnote{165} Such opportunities are routinely highlighted on a separate webpage, which lists and describes the solicitation and provides contact information for the contracting officer.\footnote{166}

\begin{flushleft}
\footnote{157} SBA “Small Entity Guide to the WOSB Program.” April, 2011.
\footnote{159} Id.
\footnote{160} SBA Guide, supra note 157, at 5.
\footnote{161} Id.
\footnote{164} Id.
\footnote{166} http://www.dhs.gov/women-owned-small-business-opportunities (last visited July 26, 2013).
\end{flushleft}
For more information on programs and services for women entrepreneurs, go to http://www.sba.gov/content/womens-business-resources, which contains helpful links to SBA programs and other available resources.

C. State and Local Programs for Women Owned Business

The above discussion described federal programs for women-owned businesses, but franchisors and franchisees should not overlook the availability of state and local programs. A simple internet search for such programs in North Texas uncovered a number of resources, including the North Central Texas Regional Certification Agency, the Women's Business Council Southwest, the Dallas/Fort Worth Minority Business Council, the Texas Building and Procurement Commission HUB Program, and a Minority/Women Business Enterprise Program in the City of Irving, TX that has a goal of awarding 25% of dollars awarded by the Irving City Council to minority and women-owned businesses.

D. Leveraging Women-Owned Business Programs to Grow Your Business

As the growth of women-owned business as a percentage of US business and jobs created continues, its impact on the US economy generally will be significant. The Women Presidents’ Organization (“WPO”) recently released its sixth ranking of the 50 Fastest-Growing Women-Owned/led companies in North America.167 As a group, these companies generated a combined $3.2 billion in 2012 revenues and employed 24,000 people.168 Among the top 10 were an organic foods company, an employee wellness company, communications and IT services and staffing companies, a health care staffing franchisor, consulting companies, and logistics management companies.169 These statistics are impressive, but there is room for improvement. According to a study published by the IFA’s Educational Foundation, in 2007, approximately 20.5% of all franchises were owned by women, while 25.7% of non-franchises business were owned by women. Another 24.4% of franchises and 18.2% of non-franchised businesses were equally owned by men and women.170

Franchisors and franchisees alike can take advantage of this trend by making themselves aware of the resources available to women-owned businesses. Franchisors can assist their franchisees in accessing these resources. Franchisors can also actively search for contracting and procurement opportunities that might use the franchised services and proactively seek participation by franchisees in such opportunities.


168 Id.

169 See, Goudreau, supra, note 153.

VII. CONCLUSION

Aside from an increased number of franchise candidates and franchisees, creation and maintenance of minority, women and military veteran franchising programs can benefit the franchisor in three areas: (1) availability of locations only open to franchisees having one of the certifications discussed in this paper; (2) increased availability of financing options to the franchisee; and (3) increased franchisee, and thus franchisor, revenues through set-aside programs. However, be cautious. Obtaining certifications and participation in set-aside programs can be onerous, especially for smaller franchisors and franchisees, not only due to the volume of information that must be provided to obtain certification, but ongoing requirements such as meeting equal employment and diversity standards, or even obtaining timely payment. Recent alleged fraudulent activity makes it even more difficult to qualify. Additionally, the government agencies can withdraw certain contracts, and depending on the disability, the franchisee may no longer qualify.

Despite these limitations, there are sound business reasons to explore these programs. In announcing its change of name from MinorityFran to DiversityFran, the IFA’s Diversity Institute noted that if US birth and immigration trends continue, one day there will be no “minority” race in the US. According to the Diversity Institute, by 2015 the combined buying power of racial and ethnic minorities in the US will be as much as $2.1 trillion, an increase of one-half trillion dollars since 2010. Making the most of the increasingly diverse economy and pool of entrepreneurs can help franchise businesses maximize business success. Inclusion has been called “mobilizing the diversity of your workforce and being open to ideas, knowledge, perspectives, approaches and styles from everyone, to garner better business results.” Franchisors and their franchisees that embrace this as a business strategy are bound to see significant business benefit over time.

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Appendix A
### Cook County MBE/WBE Certification Program

For applicants applying to the County of Cook Certification or Re-Certification as MBE, WBE and/or VBE each qualifying owner of the Applicant firm must complete the form and all non-qualifying owners who possess 20% or more interest in the Applicant firm are required to complete the form.

#### Business Information

<table>
<thead>
<tr>
<th>Business Name</th>
<th>Owner Name</th>
<th>Business Phone</th>
</tr>
</thead>
<tbody>
<tr>
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<table>
<thead>
<tr>
<th>Residence Address</th>
<th>City, State, &amp; Zip Code</th>
<th>Email</th>
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</thead>
<tbody>
<tr>
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#### Assets (not $, not ¢)

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash on hand and in Banks</td>
<td>$</td>
</tr>
<tr>
<td>Savings Account</td>
<td>$</td>
</tr>
<tr>
<td>IRA or Other Retirement Account</td>
<td>$</td>
</tr>
<tr>
<td>Accounts and Notes Receivable</td>
<td>$</td>
</tr>
<tr>
<td>Life Insurance- Cash Surrender Value (Describe in Section 8)</td>
<td>$</td>
</tr>
<tr>
<td>Stock and Bonds (Describe in Section 3)</td>
<td>$</td>
</tr>
<tr>
<td>Real Estate (Describe in Section 4)</td>
<td>$</td>
</tr>
<tr>
<td>Automobile – Present Value</td>
<td>$</td>
</tr>
<tr>
<td>Other Personal Property (Describe in Section 5)</td>
<td>$</td>
</tr>
<tr>
<td>Other Assets (Describe in Section 5)</td>
<td>$</td>
</tr>
<tr>
<td>TOTAL ASSETS</td>
<td>$</td>
</tr>
</tbody>
</table>

#### Liabilities (not $, not ¢)

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Accounts Payable</td>
<td>$</td>
</tr>
<tr>
<td>Notes Payable to Banks and Others (Describe in Section 2)</td>
<td>$</td>
</tr>
<tr>
<td>Installment Account (Auto)</td>
<td>$</td>
</tr>
<tr>
<td>Monthly Payments</td>
<td>$</td>
</tr>
<tr>
<td>Installment Account (Other)</td>
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</tr>
<tr>
<td>Monthly Payments</td>
<td>$</td>
</tr>
<tr>
<td>Loan on Life Insurance</td>
<td>$</td>
</tr>
<tr>
<td>Mortgages on Real Estate</td>
<td>$</td>
</tr>
<tr>
<td>Unpaid Taxes (Describe in Section 6)</td>
<td>$</td>
</tr>
<tr>
<td>Other Liabilities (Describe in Section 7)</td>
<td>$</td>
</tr>
<tr>
<td>TOTAL LIABILITIES</td>
<td>$</td>
</tr>
</tbody>
</table>

#### Net Worth (Assets - Liabilities = NET WORTH)

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
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<tbody>
<tr>
<td>NET WORTH</td>
<td>$</td>
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</table>

### Section 1. Source of Income

<table>
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<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary</td>
<td>$</td>
</tr>
<tr>
<td>Net Investment Income</td>
<td>$</td>
</tr>
<tr>
<td>Real Estate Income</td>
<td>$</td>
</tr>
<tr>
<td>Other Income (Describe below)*</td>
<td>$</td>
</tr>
<tr>
<td>Description of Other Income in Section 1.</td>
<td>$</td>
</tr>
</tbody>
</table>

*Alimony or child support payments need not be disclosed in "Other Income" unless it is desired to have such payments counted towards total income.

### Section 2. Notes Payable to Banks and Others

<table>
<thead>
<tr>
<th>Name &amp; Address of Noteholder(s)</th>
<th>Original Balance</th>
<th>Current Balance</th>
<th>Payment Amount</th>
<th>Frequency (monthly, etc.)</th>
<th>How Secured or Endorsed Type of Collateral</th>
</tr>
</thead>
</table>
Section 3. Stocks and Bonds
(Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.)

<table>
<thead>
<tr>
<th>Number of Shares</th>
<th>Name of Securities</th>
<th>Cost</th>
<th>Market Value Quotations/Exchange</th>
<th>Date of Quotations/Exchange</th>
<th>Total Value</th>
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</tbody>
</table>

Section 4. Real Estate Owned
(List each parcel separately. Use attachment if necessary. Each attachment must be identified as part of this statement and signed.)

<table>
<thead>
<tr>
<th>Property A</th>
<th>Property B</th>
<th>Property C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of Property</td>
<td>Address</td>
<td>Date Purchased</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Section 5. Other Personal Property and Other Assets
(Describe, and if any is pledged as security, state name and address of lien holder, amount of lien, terms of payment and if delinquent, describe delinquency)

Section 6. Unpaid Taxes
(Describe in detail, as to type, to whom payable, when due, amount, and to what property, if any, a tax lien attaches.)

Section 7. Other Liabilities
(Describe in detail)

Section 8. Life Insurance Held
(Give face amount and cash surrender value of policies - name of insurance company and beneficiaries)

I authorize the County of Cook to make inquiries as necessary to verify the accuracy of the statements made. I certify the above and the statements contained in the attachments are true and accurate as of the stated date(s). These statements are made for the purpose of obtaining certification as a Minority, Woman and/or Veteran Owned Business Enterprise. I UNDERSTAND ANY MATERIAL MISREPRESENTATION OF INFORMATION IN THIS DOCUMENT MAY RESULT IN: 1.) DENIAL OF CERTIFICATION; 2.) DE-CERTIFICATION; 3.) TERMINATION OF ANY CONTRACT AWARDED; 4.) DENIAL OF MBE/WBE/VBE PARTICIPATION CREDIT, AND/OR INITIATION ACTION UNDER FEDERAL, STATE OR LOCAL LAW.

Signature: Date: SSN:

Signature: Date: SSN:
Appendix B
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
49 C.F.R. PART 26

UNIFORM CERTIFICATION APPLICATION

ROADMAP FOR APPLICANTS

Should I apply?
- Is your firm at least 51%-owned by a socially and economically disadvantaged individual(s) who also controls the firm?
- Is the disadvantaged owner a U.S. citizen or lawfully admitted permanent resident of the U.S.?
- Is your firm a small business that meets the Small Business Administration’s (SBA’s) size standard and does not exceed $22.41 million in gross annual receipts?
- Is your firm organized as a for-profit business?

⇒ If you answered “Yes” to all of the questions above, you may be eligible to participate in the U.S. DOT DBE program.

Is there an easier way to apply?
If you are currently certified by the SBA as an 8(a) and/or SDB firm, you may be eligible for a streamlined certification application process. Under this process, the certifying agency to which you are applying will accept your current SBA application package in lieu of requiring you to fill out and submit this form. NOTE: You must still meet the requirements for the DBE program, including undergoing an on-site review.

Be sure to attach all of the required documents listed in the Documents Check List at the end of this form with your completed application.

Where can I find more information?
- U.S. DOT – http://www.osdbu.dot.gov/DBEProgram/index.cfm (this site provides useful links to the rules and regulations governing the DBE program, questions and answers, and other pertinent information)
- SBA – http://www.ntis.gov/naics (provides a listing of NAICS codes) and http://www.sba.gov/size/indextableofsize.html (provides a listing of SIC codes)
- 49 CFR Part 26 (the rules and regulations governing the DBE program)

Under Sec. 26.107 of 49 CFR Part 26, dated February 2, 1999, if at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, the Department may initiate suspension or debarment proceedings against the person or firm under 49 CFR Part 29, take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal programs.
Section 1: CERTIFICATION INFORMATION

A. Prior/Other Certifications

<table>
<thead>
<tr>
<th>Is your firm currently certified for any of the following programs? (If Yes, check appropriate box(es))</th>
<th>DBE</th>
<th>Name of certifying agency:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Has your firm’s state UCP conducted an on-site visit?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>_Yes, on <em>/<strong>/</strong></em> State: ___________ _ No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8(a) <strong>STOP!</strong> If you checked either the 8(a) or SDB box, you may not have to complete this application. Ask your state UCP about the streamlined application process under the SBA-DOT MOU.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SDB</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

B. Prior/Other Applications and Privileges

Has your firm (under any name) or any of its owners, Board of Directors, officers or management personnel, ever withdrawn an application for any of the programs listed above, or ever been denied certification, decertified, or debarred or suspended or otherwise had bidding privileges denied or restricted by any state or local agency, or Federal entity?

Yes, on ___/___/___ _ No

If Yes, identify State and name of state, local, or Federal agency and explain the nature of the action:

Section 2: GENERAL INFORMATION

A. Contact Information

<table>
<thead>
<tr>
<th>(1) Contact person and Title:</th>
<th>(2) Legal name of firm:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(3) Phone #:</td>
<td>(4) Other Phone #:</td>
</tr>
<tr>
<td>(6) E-mail:</td>
<td>(7) Website (if have one):</td>
</tr>
<tr>
<td>(8) Street address of firm (No P.O. Box):</td>
<td>City:</td>
</tr>
<tr>
<td>(9) Mailing address of firm (if different):</td>
<td>City:</td>
</tr>
</tbody>
</table>

B. Business Profile

<table>
<thead>
<tr>
<th>(1) Describe the primary activities of your firm:</th>
<th>(2) Federal Tax ID (if any):</th>
</tr>
</thead>
<tbody>
<tr>
<td>(3) This firm was established on <em><strong>/</strong></em>/___</td>
<td>(4) I/We have owned this firm since: <em><strong>/</strong></em>/___</td>
</tr>
<tr>
<td>(5) Method of acquisition (check all that apply):</td>
<td></td>
</tr>
<tr>
<td>_Started new business _ Bought existing business _ Inherited business _ Secured concession</td>
<td></td>
</tr>
<tr>
<td>_Merger or consolidation _ Other (explain)</td>
<td></td>
</tr>
<tr>
<td>(6) Is your firm “for profit”? * Yes * No</td>
<td><strong>STOP!</strong> If your firm is NOT for-profit, then you do NOT qualify for this program and do NOT need to fill out this application.</td>
</tr>
</tbody>
</table>
(7) Type of firm (check all that apply):
- Sole Proprietorship
- Partnership
- Corporation
- Limited Liability Partnership
- Limited Liability Corporation
- Joint Venture
- Other, Describe: __________________________________________

(8) Has your firm ever existed under different ownership, a different type of ownership, or a different name?
  __ Yes  __ No
If Yes, explain:

(9) Number of employees: Full-time __________ Part-time __________ Total __________

(10) Specify the gross receipts of the firm for the last 3 years:
    Year _______ Total receipts $ ______________
    Year _______ Total receipts $ ______________
    Year _______ Total receipts $ ______________

C. Relationships with Other Businesses

(1) Is your firm co-located at any of its business locations, or does it share a telephone number, P.O. Box, office space, yard, warehouse, facilities, equipment, or office staff, with any other business, organization, or entity?
  __ Yes  __ No
If Yes, identify: Other Firm’s name: __________________________________________
Explain nature of shared facilities:

(2) At present, or at any time in the past, has your firm:
(a) been a subsidiary of any other firm?  □ Yes  □ No
(b) consisted of a partnership in which one or more of the partners are other firms?  □ Yes  □ No
(c) owned any percentage of any other firm?  □ Yes  □ No
(d) had any subsidiaries?  □ Yes  □ No

(3) Has any other firm had an ownership interest in your firm at present or at any time in the past?  □ Yes  □ No

(4) If you answered “Yes” to any of the questions in (2)(a)-(d) and/or (3), identify the following for each (attach extra sheets, if needed):

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Type of Business</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

D. Immediate Family Member Businesses

Do any of your immediate family members own or manage another company?  □ Yes  □ No
If Yes, then list (attach extra sheets, if needed):

<table>
<thead>
<tr>
<th>Name</th>
<th>Relationship</th>
<th>Company</th>
<th>Type of Business</th>
<th>Own or Manage?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

1.

2.
Section 3: OWNERSHIP

Identify all individuals or holding companies with any ownership interest in your firm, providing the information requested below (If more than one owner, attach separate sheets for each additional owner):

A. Background Information

<table>
<thead>
<tr>
<th>(1) Name:</th>
<th>(2) Title:</th>
<th>(3) Home Phone #:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(4) Home Address (street and number):</th>
<th>City:</th>
<th>State:</th>
<th>Zip:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(5) Gender:</th>
<th>(6) Ethnic group membership (Check all that apply):</th>
</tr>
</thead>
<tbody>
<tr>
<td>__ Male ___</td>
<td>Black ___ Hispanic ___ Native American</td>
</tr>
<tr>
<td>__ Female ___</td>
<td>Asian Pacific ___ Subcontinent Asian</td>
</tr>
<tr>
<td></td>
<td>Other (specify)</td>
</tr>
</tbody>
</table>

| (7) U.S. Citizen: | (8) Lawfully Admitted Permanent Resident: |
| __ Yes ___ | __ No |
|            |   |

B. Ownership Interest

<table>
<thead>
<tr>
<th>(1) Number of years as owner:</th>
<th>(2) Initial investment to acquire ownership</th>
<th>Type</th>
<th>Dollar Value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Cash</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Real Estate</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Equipment</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Other</td>
<td>$</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(3) Percentage owned:</th>
<th>(4) Familial relationship to other owners:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(5) Shares of Stock:</th>
<th>Number</th>
<th>Percentage</th>
<th>Class</th>
<th>Date acquired</th>
<th>Method Acquired</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(6) Does this owner perform a management or supervisory function for any other business?</th>
<th>(7) Does this owner own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)?</th>
</tr>
</thead>
<tbody>
<tr>
<td>__ Yes ___</td>
<td>__ No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>If Yes, identify: Name of Business:</th>
<th>Function/Title:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

C. Disadvantaged Status – NOTE: Complete this section only for each owner applying for DBE qualification (i.e. for each owner claiming to be socially and economically disadvantaged)

<table>
<thead>
<tr>
<th>(1) What is the Personal Net Worth (PNW) of the owner(s) applying for DBE qualification?</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Use and attach the Personal Financial Statement form at the end of this application; attach additional sheets if more than one owner is applying)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(2) Has any trust been created for the benefit of this disadvantaged owner(s)?</th>
</tr>
</thead>
<tbody>
<tr>
<td>__ Yes ___</td>
</tr>
<tr>
<td>If Yes, explain (attach additional sheets if needed):</td>
</tr>
</tbody>
</table>

|                                |                                |
|                                |                                |
Section 4: CONTROL

A. Identify your firm’s Officers & Board of Directors *(If additional space is required, attach a separate sheet)*:

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Date Appointed</th>
<th>Ethnicity</th>
<th>Gender</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Officers of the Company</td>
<td>(a)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(c)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(d)</td>
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<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(e)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) Board of Directors</td>
<td>(a)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b)</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>(c)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(d)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(e)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(3) Do any of the persons listed in (1) and/or (2) above perform a management or supervisory function for any other business?  __ Yes  __ No
If Yes, identify for each: Person: __________________________________ Title: ______________________________ Business:  ________________________________ Function: ___________________________

(4) Do any of the persons listed (1) and/or (2) above own or work for any other firm(s) that has a relationship with this firm *(e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)*?  __ Yes  __ No
If Yes, identify for each: Firm Name: _______________________________ Person: _____________________________ Nature of Business Relationship: ________________________________

B. Identify your firm’s management personnel who control your firm in the following areas *(If more than two persons, attach a separate sheet)*:

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Ethnicity</th>
<th>Gender</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Financial Decisions <em>(responsibility for acquisition of lines of credit, surety bonding, supplies, etc.)</em></td>
<td>a.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>b.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) Estimating and bidding</td>
<td>a.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>b.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(3) Negotiating and Contract Execution</td>
<td>a.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>b.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(4) Hiring/firing of management personnel</td>
<td>a.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>b.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(5) Field/Production Operations Supervisor</td>
<td>a.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>b.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(6) Office management</td>
<td>a.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>b.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(7) Marketing/Sales</td>
<td>a.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>b.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(8) Purchasing of major equipment</td>
<td>a.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>b.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(9) Authorized to Sign Company Checks (for any purpose)</td>
<td>a.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>b.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(10) Authorized to make Financial Transactions</td>
<td>a.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>b.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
(11) Do any of the persons listed in (1) through (10) above perform a management or supervisory function for any other business?  __ Yes  __ No
If Yes, identify for each: Person: __________________________ Title: ________________________________
Business: __________________________ Function: ___________________________

(12) Do any of the persons listed in (1) through (10) above own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)?
__ Yes  __ No
If Yes, identify for each: Firm Name: __________________________ Person: ____________________________
Nature of Business Relationship: __________________________

C. Indicate your firm's inventory in the following categories (attach additional sheets if needed):

(1) Equipment

<table>
<thead>
<tr>
<th>Type of Equipment</th>
<th>Make/Model</th>
<th>Current Value</th>
<th>Owned or Leased?</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(2) Vehicles

<table>
<thead>
<tr>
<th>Type of Vehicle</th>
<th>Make/Model</th>
<th>Current Value</th>
<th>Owned or Leased?</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(3) Office Space

<table>
<thead>
<tr>
<th>Street Address</th>
<th>Owned or Leased?</th>
<th>Current Value of Property or Lease</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(4) Storage Space

<table>
<thead>
<tr>
<th>Street Address</th>
<th>Owned or Leased?</th>
<th>Current Value of Property or Lease</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

D. Does your firm rely on any other firm for management functions or employee payroll?  __ Yes  __ No
If Yes, explain:

E. Financial Information

(1) Banking Information:
(a) Name of bank: ____________________________ (b) Phone No: ( ) __________________________
(c) Address of bank: __________________________ City: __________ State: _____ Zip: __________
(2) **Bonding Information**: If you have bonding capacity, identify:

(a) Binder No: ________________________
(b) Name of agent/broker ________________________________
(c) Phone No: (      ) ______________________
(d) Address of agent/broker: ____________________________
   City: ______________  State: _____  Zip: _______
(e) Bonding limit: Aggregate limit  $__________________
   Project limit  $__________________

F. Identify all sources, amounts, and purposes of money loaned to your firm, including the names of any persons or firms securing the loan, if other than the listed owner:

<table>
<thead>
<tr>
<th>Name of Source</th>
<th>Address of Source</th>
<th>Name of Person Securing the Loan</th>
<th>Original Amount</th>
<th>Current Balance</th>
<th>Purpose of Loan</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

G. List all contributions or transfers of assets to/from your firm and to/from any of its owners over the past two years *(attach additional sheets if needed)*:

<table>
<thead>
<tr>
<th>Contribution/Asset</th>
<th>Dollar Value</th>
<th>From Whom Transferred</th>
<th>To Whom Transferred</th>
<th>Relationship</th>
<th>Date of Transfer</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>2.</td>
<td></td>
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<tr>
<td>3.</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

H. List current licenses/permits held by any owner and/or employee of your firm *(e.g. contractor, engineer, architect, etc.)* *(attach additional sheets if needed)*:

<table>
<thead>
<tr>
<th>Name of License/Permit Holder</th>
<th>Type of License/Permit</th>
<th>Expiration Date</th>
<th>License Number and State</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

I. List the three largest contracts completed by your firm in the past three years, if any:

<table>
<thead>
<tr>
<th>Name of Owner/Contractor</th>
<th>Name/Location of Project</th>
<th>Type of Work Performed</th>
<th>Dollar Value of Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
J. List the three largest active jobs on which your firm is currently working:

<table>
<thead>
<tr>
<th>Name of Prime Contractor and Project Number</th>
<th>Location of Project</th>
<th>Type of Work</th>
<th>Project Start Date</th>
<th>Anticipated Completion Date</th>
<th>Dollar Value of Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
NADCO’s VetLoan Advantage Directory

Advantage Certified Development Corporation – offers a $3,000 rebate. As of June 12, 2013, the effective rate for new SBA 504 loans will be 4.529%.

AMPAC TriState Certified Development Corporation offers a $3,000 rebate.

Arcata Economic Development Corporation offers a $3,000 rebate.

Bay Area Development Corporation offers a $3,000 rebate.

Bay Colony Development Corporation offers a $3,000 rebate.

Business Development Finance Corporation offers a $3,000 rebate.

Business Finance Center of Tulare County offers a $3,000 rebate.

Business Finance Group offers: ILP Program: Waive the 1% origination fee (savings of $500 - $2,000 for loans ranging from $50,000 to $200,000) 504 Program: For loans under $1,500,000 – waive 0.5% of the processing fee (savings up to $7,500) For loans over $1,500,000 – waive 0.25% of the processing fee (savings up to $12,500)

California Coastal Rural Development Corporation offers a $3,000 rebate.

California Statewide Certified Development Corporation offers a $3,000 rebate.

Capital Access Group offers a $3,000 rebate.

Capital Certified Development Corporation will offer: For 504 loans under $1,500,000, Capital CDC will waive 0.5% of the processing fee (a savings of up to $7,500). For 504 loans over $1,500,000 to $5,500,000, Capital CDC will waive 0.25% of the processing fee (a savings of up to $13,750). This program offer will be in effect starting July 15, 2013. Loans submitted prior to July 15, 2013 will not be applicable.

Capital Funding (Greater Sacramento CDC) offers a $3,000 rebate.

Caprock Business Finance Corporation will reduce their loan origination fee to 1%. (The South Plains Association of Governments has a Revolving Loan Fund that is capitalized with Economic Development Administration grants and local funds. On loans to veterans, they are willing to provide an interest rate of 4% fixed for up to 10 years.)

CDC Small Business Finance offers a $3,000 rebate.

Cen Cal Business Finance Group offers a $3,000 rebate.

Coastal Area District Development Authority

Coastal Business Finance offers a $3,000 rebate.
Community Investment Corporation will offer a credit of up to $2,000 to reimburse the actual cost of an appraisal. And, through local partnerships, CIC can help secure up to $1,500 of additional credit.

CSRA Business Lending will rebate up to $5,000 and waive the processing fee on its direct loans.

DelVal Business Finance Corporation will reduce its loan processing fee for projects in Pennsylvania and New Castle County, Delaware by 1/2 of 1%.

Enterprise Funding Corporation offers a $3,000 rebate for closing costs.

GA Resource Capital, Inc. will pay the closing attorney’s fee and all CDC incurred costs (e.g., credit reports, tax transcripts, flood searches) on the SBA 504 portion of the loan up to $5,000 per project.

Golden State Certified Development Corporation (San Fernando Valley CDC) offers a $3,000 rebate.

Hawaii Community Reinvestment Corporation offers a $3,000 rebate.

HEDCO Local Development Corporation offers a $3,000 rebate.

Iowa Business Growth offers a 50% discount on the CDC processing fee up to $3,000.

Lake County Partners will offer up to $2,000 toward out-of-pocket closing costs.

Landmark Certified Development Corporation offers a $3,000 rebate.

Mid State Development Corporation offers a $3,000 rebate.

Mountain West Small Business Finance offers: To waive the loan origination fee (1.5%) for USDA IRP (rural) loans; reduce the loan origination fee on 504 loans to 1% for total projects over $1.25 million and to 1.25% for projects under $1.25 million; and waive the packaging fee on Community Advantage 7(a) loans.

Nevada State Development Corporation offers a $3,000 rebate.

New Ventures Capital Development Company offers a $3,000 rebate.

New England Certified Development Corporation (BDC Capital Corporation) offers: SBA 504 Loans – pay the third party lender fee (50 basis points) and reduce the processing fee to 1%. (NECDC staff has sons currently on active duty, and believe that it is one small way to show their appreciation for their sacrifice.)

New York Business Development Corporation & Empire State Certified Development Corporation offers: Community Advantage Loans (7(a) loans up to $250,000) – pay the SBA guaranty fee – a savings of up to $5,625.

SBA 504 Loans – pay the third party lender fee (50 basis points) and reduce the processing fee to 1%. On a $5 million project with a traditional structure (50-40-10), this will result in a cost savings of $22,500.
Pacific West Certified Development Corporation offers a $3,000 rebate.

REDCO504 offers: For 504 loans under $1,500,000, REDCO will waive 0.5% of the processing fee (for a savings of up to $7,500). For 504 loans over $1,500,000, REDCO will waive 0.25% of the processing fee (for a savings of up to $12,500).

RMI, Inc. will waive 1/3 of the processing fee for 504 loans. On a $500,000 loan, the veteran will save $2,500. A $3 million loan will save the vet $15,000.

Rockford Local Development Corporation is willing to pay the bank subordination fee.

Rural Enterprises of Oklahoma offers: 504 Program: For loans under $1,500,000 – waive 0.5% of the processing fee (savings up to $7,500) For loans over $1,500,000 – waive 0.25% of the processing fee (savings up to $12,500) Direct Loan Program: Waive the 1% origination fee (savings of up to $3,000 for loans up to $300,000)

SEDA-COG Local Development Corporation will waive 0.25% of the processing fee – a savings of up to $13,750.

SEED Corporation will waive half a percent (0.5%) on the processing fee for both SBA 504 and SEED loans. SoCal Certified Development Corporation offers a $3,000 rebate.

Southland Economic Development Corporation offers a $3,000 rebate.

Southwestern Business Financing Corporation offers a $3,000 rebate.

Small Business Access Partners will waive the CDC’s 1½ processing fee for all SBA 504 loans as well as waive the loan origination fee for any loan made to veterans under our internal USDA IRP Loan Fund.

Success Capital Expansion & Development Corporation offers a $3,000 rebate.

Superior California Economic Development will reduce their processing fee. SCED will rebate 1.25% of the borrower’s 1.50% CDC processing fee after the SBA 504 loan funds. There is no cap to the rebate.

St. Louis County Economic Council - Business Finance Corporation of St. Louis County will offer 0.5% off of the origination fee up to $5,000 towards the appraisal and environmental.

The Pennsylvania Community Development and Finance Corporation will offer a 1% rebate (a maximum cash rebate of $3,000 per business) of the SBA loan amount, which can be used to offset loan expenses including appraisals and environmental reports.

Tidewater Business Financing Corporation will pay the lender fee and reduce the origination fee to 1%.

TMC Financing offers a $3,000 rebate. Tracy/San Joaquin County Certified Development Corporation offers a $3,000 rebate.
Utah Certified Development Corporation will reduce their 1.5% loan origination fee to 1% and will issue a rebate of up to $5,000 to offset a borrower's loan expenses, including appraisal and environmental reports.

Wisconsin Business Development will offer a “one and one” plan including a funding rebate of $1,000 to veterans as a reduction of their regular fees. WBD will offer one day of technical assistance to veterans at no charge, including counseling by a WBD officer.

Worcester Business Development Corporation will reduce its up front processing fee by 1/3 and pay the bank SBA fee up to their remaining 1% processing fee.

LEVERAGING DIVERSITY – LEGAL AND BUSINESS CONSIDERATIONS

AUTHOR BIOGRAPHIES

NANCY GLISAN GOURLEY

Nancy Gourley is Vice President-Franchise Legal at LQ Management L.L.C. in Irving Texas, where her responsibilities include all matters related to franchising of the La Quinta Inn & Suites and La Quinta Inn brands worldwide. She was previously Senior Counsel-Franchise with Hilton Worldwide, Inc., in McLean, Virginia (where her primary responsibilities involved franchising issues related to Hilton Worldwide’s 9 hotel brands in the Americas) and Corporate Counsel with Accor North America, Inc. (where she handled franchising matters for Motel 6/Studio 6 and Red Roof Inns and other corporate and contract matters for Accor brands in the US). Ms. Gourley is an Honors graduate of Oklahoma State University and the University of Tulsa College of Law. She is admitted to practice in Oklahoma and is a member of the bar of the United States Supreme Court.

Ms. Gourley has been involved in franchising since 1985, with an emphasis in the hospitality area since 2003. She served as Director of the Litigation and Dispute Resolution Division of the American Bar Association Forum on Franchising, in which capacity she served on the ABA Forum Governing Committee. While in law practice in Tulsa, Oklahoma, Ms. Gourley was active in the Tulsa County and Oklahoma Bar Associations, serving as chair of both the Litigation Section and the Alternative Dispute Resolution Sections of the OBA and on the OBA Board of Governors. She has spoken at numerous CLE programs at the local, state and national level on franchising, dispute resolution, and hospitality-related topics. She authored the “Oklahoma” section of the ABA Publication COVENANTS AGAINST COMPETITION IN FRANCHISE AGREEMENTS 2nd and 3rd Editions.

JOSEPH Q. MCCOY

Joseph McCoy is a Partner at the law firm of Bryan Cave LLP with 15 years of experience documenting, negotiating and closing complex real estate, lending and business transactions. Mr. McCoy counsels clients with respect to large real estate portfolio management and repositioning needs (disposition, construction, leasing). He also represents secured lenders in structuring (and restructuring) and documenting loan originations (construction, acquisition, mezzanine, working capital facilities, letter of credit facilities, participant loan transactions, and syndicated loan transactions); and Noteholders and CMBS special servicers on note sale transactions.

Mr. McCoy is also currently the Co-Leader of the Bryan Cave LLP Airport Concessions Practice with emphasis on 1) structuring legal joint venture relationships for ownership and operation of airport concession operators; 2) negotiating license agreements for specific use of a company name and trademark with specialty retailers and food and beverage concession operators; 3) negotiating concession lease and sublease agreements; 4) negotiating franchise development agreements; 5) representing concession operators on ACDBE certification and DOT joint venture guideline issues; 6)
Mr. McCoy is a graduate of the University of Chicago (BA, 1994 / MA, 1998) and Northwestern School of Law (JD, 1998). He is currently a Board of Director for the Airport Minority Advisory Council; Leadership Greater Chicago; Urban Prep Academies; Northwestern University School of Law; and the Illinois Equal Justice Foundation. In addition he is an adjunct professor at Northwestern University School of Law.

**ANDRA J. TERRELL**

Andra Terrell has been Assistant General Counsel for Luxottica Retail at their corporate headquarters in Mason, Ohio since May 2005. From August 1999 through May 2005 she was Assistant General Counsel for General Nutrition Centers, Inc., a Pittsburgh, Pennsylvania based franchisor of nutritional supplement retailers with over 4,200 locations worldwide. From September 1995 through March 1998 she was the General Counsel of Decorating Den Systems, Inc., an Easton, Maryland based franchisor of home decorating services with more than 500 franchises in the United States and Canada. From March 1998 through November 1998 she was Franchise Counsel for Precision Tune Auto Care, Inc., a Leesburg, Virginia based franchisor of auto care centers with 410 stores worldwide. She is a graduate of Johns Hopkins University (B.S. Natural Sciences and History of Science, 1992) and Howard University School of Law (J.D., 1995). Ms. Terrell is a member of the Maryland Bar. Additionally, Ms. Terrell is a member of the American Bar Association (Forum on Franchising), and has been active in the Corporate Counsel Steering Committee and Diversity Caucus, which recently appointed her as the Liaison to the Disabilities Rights Commission. Further, she is also a member of the International Franchise Association (IFA), and is serving her second term on the IFA Task Force.