

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

Joint Ventures

Applicable Law & Regulations

- DC Official Code 2-218.39a
- 27 DCMR 811-814

Purpose of Joint Ventures

- To provide an opportunity to CBEs to participate in projects for which they have the required competence and expertise to perform, however lack the financial and organizational capacity to perform alone.

Strategic Benefit of Joint Ventures

- Public/Private Partnerships: 35% CBE Set-aside**
- Public: Bid Preference Points (Maximum of 12 pts)
 - Non-CBE Participant(s)
 - Greater than 50% CBE control = points of majority CBE
 - 35% to 50% CBE control = 4 points**
 - At least 20%, but less than 35% CBE control = 2 points**
 - All CBE Participants = points of majority (or managing) CBE, plus:
 - Up to 4 points for any CBE whose percentage of ownership in the joint venture is greater than 35% and less than or equal to 50%; and
 - Two points for any CBE whose percentage of ownership in the joint venture is greater than 20% and less than or equal to 35%.

**Less than majority CBE JVs do not count toward 35% CBE set-aside

Determination of JV Ownership

Based upon:

- Financial contribution and benefit,
- Work performed,
- Allocation of profits and fees,
- Labor Contribution, and
- JV-agreement-defined management & control.

Certification

- Takes up to 3 weeks
- Documentation
 - Submit an executed copy of the applicant's joint venture agreement;
 - Submit all other agreements between the parties regarding the operations of the joint venture;
 - Submit the most current audited financial statement for the non-CBE participant;
 - Submit a Work Performance Breakdown;
 - Submit a Labor and Profit Breakdown; and
 - Submit participant certified payrolls (continues for JV).

Certification cont'd

- Additional Requirements
 - Inform the Department of whether the CBE has relinquished its ownership interest in any joint venture within the one-year period prior to the application date; and
 - Demonstrate that each participant in the joint venture has the competence and expertise necessary to perform the type of work in connection with which the applicant wishes to be certified.

Reporting

- Quarterly income statements showing all income or contract receipts and all expenses (including but not limited to, fees for services and labor, salaries of the joint venture principals, and distribution of profits) no later than sixty (60) days after the end of each operating quarter of the calendar year.
- Cumulative quarterly information for entire project and a project-end income statement no later than forty-five (45) days after completion of the contract with a statement of final profit distribution.
- Information submitted confidential...not subject to FOIA.

Penalties for Abuse

- Criminal
 - A contractor or business enterprise may not identify a CBE in a bid or proposal unless it:
 - Has obtained authorization from the CBE to identify the CBE in its bid or proposal;
 - Has notified the CBE before execution of the contract of its inclusion in the bid or proposal; and
 - Uses the CBE in the performance of the contract.
 - A contractor or business enterprise may not pay a CBE solely for the use of its name in the bid or proposal.
 - A person who violates any provision of this subsection is guilty of a felony is subject to a fine up \$15,000, imprisonment up to 5 years, or both.

Penalties for Abuse cont'd

- Criminal cont'd
 - A person may not make false statements about whether an entity has business enterprise certification.
 - A person who violates this subsection is guilty of a misdemeanor and subject to a fine up to \$5,000, imprisonment up to one year, or both.
- Civil
 - Business enterprise and the directors, officers, or principals of a business enterprise that is reasonably believed to have obtained certification by fraud or deceit or to have willfully furnished substantially inaccurate or incomplete ownership information to the Department may be sued by the District and subject to a civil penalty of up to \$100,000.

Contact

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Questions...

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