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# MWBE & DBE Certification Primer for the Transportation Industry

Minority and Women-Owned Business Enterprises (MWBEs) and Disadvantaged Business Enterprises (DBEs) are critical when considering doing business with government agencies. These certifications can and do lead to big business for the transportation sector. This is the case whether you own a for-hire ground transportation company, or a technology or construction company building infrastructure, or even if you are an electric vehicle charging company or vehicle manufacturer looking to sell or lease to the government. Increasingly in the U.S., if you do not have such certifications (or a member of your bidding team that does not have it as a subcontractor), your company could find itself on the outside looking in at others obtaining procurement advantages and massive contracts. Also, in this day and age, with the emphasis at all levels of mobility focusing on diversity, equity, and inclusion, meeting these requirements (even if not formal certifications) may give your company an edge in obtaining contracts for passenger transportation in the non-emergency medical transportation and business travel arena in the private sector, as well.

For example, in 2023, the Metropolitan Transportation Authority (MTA) awarded approximately \$1.2 billion in contracts to certified MWBEs and DBEs. At a press conference held on March 7, 2024, entitled “Equity in Infrastructure Project,” New York Governor Kathy Hochul stood with MTA Chairman and CEO Janno Lieber, and both pledged to support historically underutilized businesses. Chair Lieber stated, “In 2023, almost 40% of all MTA contracts awarded went to MWBEs accounting for over \$800 million.”<sup>1</sup> These MWBE requirements are set pursuant to Executive Order Article 15-A of the New York State Executive Law.<sup>2</sup>

On the local level, in October 2023, New York City Mayor Eric Adams announced “Record-breaking \$6 billion spending with NYC’s MWBE Firms in First Fiscal Year of Administration.”<sup>3</sup> To date, this was New York City’s highest ever MWBE utilization rate. The rate reached 28% for one fiscal year. Under goals set by Mayor Adams, MWBE certified businesses will be awarded \$60 billion in contracts. Likewise, in December 2023, New York City Department of Transportation Commissioner Ydanis Rodriguez hosted an event, “Doing Business with the DOT,” with more than 500 business owners and executives attending. The event highlighted the commitment of the New York City Department of Transportation to diversity, equity, and inclusion. Commissioner Rodriguez embraced Mayor Adams’s goal of awarding \$60 billion in municipal contracts to MWBE certified businesses by the year 2030. At the event, Commissioner Rodriguez stated, “I am excited to share that NYC DOT is leading the way. In fiscal year 2023, we proudly awarded over \$207 million to MWBEs, showing a significant increase from a utilization rate of 10% in the previous year to an impressive 24% this year. This remarkable

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1 <https://www.governor.ny.gov/news/governor-hochul-announces-mta-signs-equity-infrastructure-project-pledge-support-historically>.

<https://www.governor.ny.gov/news/governor-hochul-announces-minority-and-women-owned-business-enterprise-utilization-rate-leads>

2 <https://esd.ny.gov/doing-business-ny/mwbe>.

3 <https://www.nyc.gov/office-of-the-mayor/news/725-23/mayor-adams-record-breaking-6-billion-spending-nyc-s-m-wbe-firms-first-fiscal#:~:text=>

achievement is a testament to diversity and inclusion in contracting.”<sup>4</sup> Given that the New York City Department of Transportation has annual operating budget of \$1.4 billion, and a ten year capital budget of \$33 billion, these contract amounts are significant.



***Left to Right: former NYC Taxi & Limousine Commissioner/Chair Matt Daus, NYC Mayor Eric Adams, and NYC Department of Transportation Commissioner Ydanis Rodriguez.***

Besides these initiatives in New York City, many other cities within the U.S. are also expanding MWBE and DBE funding and opportunities for businesses meeting local eligibility criteria. Of the many cities and states doing so, a few examples noted here are Chicago, Houston and Los Angeles.

The City of Chicago is setting aside 26 percent of all construction projects for MWBEs and 6 percent of all construction contracts for WBEs through 2027.<sup>5</sup> Under the recent changes, Chicago widened qualifications by removing specific types of assets and savings when determining personal net worth to determine eligibility. Located within the Department of Procurement Services in the Division of Contract Monitoring and Certification. This division certifies minority and women business enterprises and carries out the mandates of Equal Employment Opportunity and Affirmative Action requirements. Minority- and women-owned

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4 <https://workersworldtoday.com/dot-commissioner-yda>

5 <https://www.contractornews.com/316/chicago-extends-m-wbe-set-aside-program-through-2027>

businesses wanting to take advantage of the opportunities afforded to them under the M/WBE program must be at least 51 percent owned and controlled by a minority or woman and be City-certified. City of Chicago certification is also accepted by other government agencies and some private agencies. Currently, over 2,300 M/WBEs are certified.<sup>6</sup>

At the state level, the Disadvantaged Business Enterprise (DBE) program administered by the Illinois Department of Transportation (IDOT) provides minorities, women, and other eligible small businesses an opportunity to participate in transportation contracts that utilize federal funds. Such contracts may also apply to certified companies providing professional services.<sup>7</sup>

The City of Houston's certified MWBE primary contractors are expected to count the value of the work they self-perform to meet up to 25% of Houston's total MWBE contract goals. Houston made these changes to provide potential opportunities for more MWBEs to serve as prime contractors. Houston reserves a significant percentage of the contract goal for certified MWBE subcontractors.<sup>8</sup> The City of Houston is a member of the Texas Unified Certification Program (TUCP). As a general requirement, a DBE is 51 percent owned, managed, and controlled by one or more socially and economically disadvantaged individual(s). The TUCP certifies Disadvantaged Business Enterprises for participation in Department of Transportation federal contracting projects across the State of Texas in compliance with the Code of Federal Regulations (49 CFR 26 and 23).<sup>9</sup>

Within the Bureau of Contract Administration with the Department of Public Works administers the City of Los Angeles's business certifications, including verification and eligibility requirements. In Los Angeles, certified local businesses are eligible to receive additional bid preferences to enhance their market competitiveness and apply for local government contracts. The Los Angeles Department of Transportation has a DBE three-year overall goal for Fiscal Years 2025-2027 in accordance with USDOT regulations. LADOT has drafted a DBE goal for the three-year period from October 1, 2024 (Federal Fiscal Year 2025) through September 30, 2027 (Federal Fiscal Year 2027), with an overall draft goal of 6.96% for contracts.<sup>10</sup> The Regional Alliance Marketplace for Procurement (RAMPLA) serves as the central portal for public and private procurement opportunities in the Greater Los Angeles region.<sup>11</sup> To facilitate greater participation, Los Angeles does not consider or limit a qualifying owner's personal net worth, and does not impose a limit on annual revenue to qualify as an MWBE. Any for-profit, independent business may pursue business on City-funded contracts. Certification provides marketing exposure to prime contractors and government agencies through the City of LA's online MBE/WBE/DBE/ACDBE database (<http://bca.lacity.org>) and the California statewide DBE/ACDBE database ([http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm)).<sup>12</sup>

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<sup>6</sup> [https://www.chicago.gov/city/en/depts/dps/supp\\_info/mbe\\_wbe\\_program\\_overview.html](https://www.chicago.gov/city/en/depts/dps/supp_info/mbe_wbe_program_overview.html)

<sup>7</sup> <https://idot.illinois.gov/doing-business/certifications/dbe.html>

<sup>8</sup> [Policies and Procedures 2020 Update \(houstontx.gov\)](https://www.houstontx.gov/policies-procedures/2020-update)

<sup>9</sup> [Disadvantaged Business Enterprise Certification \(houstontx.gov\)](https://www.houstontx.gov/dbe)

<sup>10</sup> <https://www.ladottransit.com/dbe/>

<sup>11</sup> <https://bca.lacity.gov/certification-program-description>

<sup>12</sup> [https://bca.lacity.gov/Uploads/cca/Frequently\\_Asked\\_Questions.pdf#:~:text=The%20firm%20receives%20a%2010%25%20preference%20on%20competitively,from%20the%20bid%20of%20the%20SLB%20certified%20firm.](https://bca.lacity.gov/Uploads/cca/Frequently_Asked_Questions.pdf#:~:text=The%20firm%20receives%20a%2010%25%20preference%20on%20competitively,from%20the%20bid%20of%20the%20SLB%20certified%20firm.)

Given the large amounts of public contract dollars dedicated to MWBE and DBE companies, it is not surprising that such programs would face legal challenges. In March 2024, the Honorable Mark T. Pittman, U.S. District Court Judge for the Northern District of Texas (Fort Worth Division), struck down the use of race-based presumptions in determining eligibility for federal benefits and support from federal agencies such as the Minority Business Development Agency (MBDA). In *Nuziard v. Minority Business Development Agency*, No. 4:23-cv-00278-P, the court's ruling essentially opened the "door to all races" seeking to qualify as disadvantaged business owners.<sup>13</sup>

A business owner will have expanded opportunities when the business receives an MWBE or DBE certification. These certifications present opportunities to bid on government contracts, access financial assistance and relevant business consulting support, and enable a qualifying company to participate in these set-aside programs. Many local and state government leaders are continuing to raise the goals on the utilization of minority and women-owned, and disadvantaged owned businesses. Government officials are mandating the utilization of these businesses for all government contracts and requiring non-minority businesses to partner with minority-owned businesses when seeking government contracts. For example, in New York City, Michael Garner, the Chief Business Diversity Officer, leads the Mayor's Office of Minority and Women-Owned Business Enterprises (M/WBE), an office that is mandated to support the City's efforts in promoting diversity, equity, and inclusion within New York City's government operations and services. The utilization rates of MWBEs and DBEs programs have become the foundation of responsible and ethical business practices. Corporations and government agencies are beginning to recognize the vital role these programs play in increasing profits, increasing diversity and inclusion, and ultimately creating a more equitable and vibrant economy. These programs are not just a social imperative but also a strategic advantage for businesses.

### ***Opportunities for Business Owners***

For transportation businesses – and any other businesses that meet the certification requirements, there are a whole host of benefits and incentives to grow the bottom line. The benefits of MWBE/DBE certifications include, but are not limited to, the following:

- ***Enhanced business visibility:*** Most local and state organizations maintain directories listing businesses that are MWBE or DBE certified.
- ***Exclusive contract opportunities:*** Many local and state government agencies reserve and/or require a certain percentage of services be provided by certified minority businesses.
- ***Networking opportunities:*** Events such as workshops and networking seminars arranged for minority business owners so they can grow their business network and meet with potential collaborators.

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<sup>13</sup> <https://www.washingtonpost.com/business/2024/03/06>

- *Financial benefits:* Financial access to banks with low interest loans and lines of credit to tax breaks and grant opportunities minority business certification backing will assist with expansion and growth of the business.
- *Education:* Opportunities for continued learning through training and development resources provided by government agencies and certification organizations for minority businesses.

### ***MWBE versus DBE Certifications***

Often, the terms MWBE and DBE are used interchangeably, but they represent distinct programs with unique goals, requirements, and regulations. While both programs aim to promote equity and economic opportunities for underrepresented groups, their definitions and eligibility requirements and implementation vary significantly. It is important for business owners to understand the differences before seeking to participate in these government initiatives.

MWBE certification programs focus on businesses that are owned and controlled by individuals from specified minority groups and women. DBE certification and programs encompass a broader range of disadvantaged business owners, including those businesses owned by individuals with disabilities, veterans, or individuals residing in economically distressed areas. This broader scope allows DBE programs to address a wider range of socioeconomic challenges, which furthers the goals for equity in government procurement that have been touted by federal, state and local elected officials and agencies. The implementation of both certification programs varies across states and municipalities. Some states and municipalities have separate MWBE and DBE certification programs, while others combine the two into a single certification program.

### ***The History of Certification Programs***

In the 1960s, the federal government began implementing programs to help level the playing field for minority-owned businesses. In 1968, the Small Business Administration (SBA) introduced a Minority Business Enterprise certification program. The SBA's Business Development Program was established to provide assistance to small businesses owned and operated by socially and economically disadvantaged individuals. The SBA's program provided training, counseling, and support in obtaining government contracts in an effort to create opportunities for minority-owned businesses to grow and succeed. The 1968 program laid the groundwork for future MWBE programs by serving as a catalyst for subsequent efforts by state and local governments to develop more targeted programs aimed at promoting inclusion and economic empowerment for minority owned businesses.

In the 1980s, the federal government began offering MWBE certification programs at the state and local level with the goal of increasing the participation of minority and women-owned businesses in government contracting. The main eligibility requirement for the business was that it was 51% owned and controlled by minorities or women in order to qualify for certification. In 1982, the DBE certification program began with the passage of the federal Surface Transportation Assistance Act.

The law established the DBE program within the United States Department of Transportation (USDOT). The DBE program is implemented by the state and local governments with USDOT funding. A DBE certified enterprise must be 51% owned by socially- and economically-disadvantaged individuals. Factors such as low income, disability, veteran status, and residency in economically-distressed areas are used to determine if a business owner is economically disadvantaged.

Since the 1980s, both the MWBE and DBE certification programs have continued to grow, evolve, and expand. Currently, many states and municipalities have their own programs to promote diversity and equity in government contracting. With the growth and expansion of government contracting programs and opportunities for businesses with certifications, heightened scrutiny of applicants for minority certification has also risen. In fact, the list of supporting documents required for MWBE/DBE certification has been expanded by certification organizations in an effort to improve upon the services they provide and to prevent fraud.

### *Challenges Facing MWBE and DBE Certifications*

Certification programs are vital tools in promoting equity and opportunity for disadvantaged business owners. There are numerous government agencies, organizations and programs that have been established to provide support and opportunities for certified business owners. These programs recognize the unique challenges faced by disadvantaged business owners and implement policies and programs that support the growth and success of the business. While the goal of certification programs is to promote the participation of socially and economically disadvantaged individuals in federal, state and local government contracting, in effect, these policies and programs create a more inclusive and equitable business environment that not only benefits individual business owners, but the economy as a whole.

As noted above, in *Nuziard v. MBDA*, Judge Pittman struck down the use of race-based presumptions in determining eligibility for federal benefits and support. In this case, it was access to programs sponsored and supported by the Minority Development Business Agency (MBDA). The MBDA is an agency within the United States Department of Commerce. It was established by President Richard Nixon with the stated mission of promoting the growth, and competitiveness of minority-owned businesses in the United States. These minority-owned businesses include those owned by Hispanic and LatinX Americans, Asian Americans, African Americans, and Native Americans. The agency provides them with access to capital, contracts, and market opportunities both domestic and global. Pursuant to statute the main focus of the agency is to provide business consulting services to minority business owners.<sup>14</sup>

In *Nuziard v. MBDA*, three non-minority entrepreneurs sought financial assistance and support from the MBDA for their small businesses. They filed a civil rights lawsuit in Texas seeking a preliminary injunction against the MBDA prohibiting the agency from implementing certain programs because they are racially discriminatory and violate the U.S. Constitution's Equal Protection Clause due to the fact that the programs are only available to "socially or economically" disadvantaged individuals, and only certain minority groups are presumed to be socially disadvantaged based on their race or ethnicity. The Court ruled in favor of two of the plaintiffs,

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14 15 U. S. C. Section 9501(9)(A)

Nuziard and Bruckner, striking down the MBDA’s presumption that certain minority groups are “socially or economically “disadvantaged based on their race.

This case joins other decisions around the country where business owners seek to invalidate the use of race/ethnic based presumptions in determining eligibility for programs that receive federal funding. The Court issued a nationwide permanent injunction prohibiting the MBDA and all of its subsidiaries from using race or ethnicity in determining eligibility for receiving its program’s benefits. The U.S. Department of Justice represented the MBDA and Solicitor General Elizabeth B. Prelogar stated that “it would not be in the best interests of the United States to seek further review of the district court’s judgment in this particular case.”<sup>15</sup>

In a statement in response to the Department of Justice’s decision to not appeal the Texas court’s ruling, MBDA Acting Undersecretary Eric Morrissette issued the following statement on June 28, 2024:

“The Department of Justice will not appeal the decision. The court’s decision does not prevent MBDA from continuing to be a resource for minority business enterprises.”<sup>16</sup>

The decision in *Nuziard v. MBDA* will have no impact on the organizations that process certification applications and provide consulting services for minority- and women-owned businesses. However, those agencies that certify and provide services for disadvantaged owned business owners will have to open up their certification process to all minority and non-minority business owners seeking disadvantaged business status thereby requiring these certification organizations to conduct more in depth investigation into a business owner’s personal and financial information to determine eligibility for disadvantaged business status. Even in light of the *Nuziard* decision, the organizations that provide services for MWBE/DBE business owners will continue to fulfill their mandates so that historically underrepresented businesses will continue to be supported and able to compete for contracts.

### ***Definition of Disadvantaged Business Owner***

A disadvantaged business owner is an individual who faces social or economic challenges that have historically hindered their ability to compete in the business world on an equal footing with others. These challenges can stem from factors such as race, ethnicity, gender, disability, or economic circumstances. Participants in MWBE/DBE certification programs have faced many barriers to business success such as access to funding and banking resources, knowledge of opportunities and unavailable business support. All of these are factors that prevent disadvantaged businesses owners from succeeding.

The MWBE certification is a process by which businesses owned and controlled by individuals from a minority group are verified as eligible to participate in government contracts and eligible to receive preferential treatment under MWBE programs. A certifying organization or

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15 <https://www.justice.gov.6/22/24>

16 <https://www.mbda.gov/news/news-and-announcements/2024/06/acting-under-secretary-minority-business-development-eric>



government agency identifies businesses after a rigorous verification process as being owned (51%), controlled and operated by individuals belonging to a specific minority group. MWBE programs typically include businesses that are owned and controlled by individuals from the following minority groups: Black/African American; Hispanic/LatinX; Asian; Native American and Women. It is important to note that the specific definitions and classifications of these groups may vary slightly depending on the specific program and jurisdiction. So you should consult with counsel and/or the agency for guidance and eligibility criteria.

The DBE certification is typically issued by state and local government authorities responsible for transportation projects. DBE programs primarily focus on increasing participation in these projects. These government agencies often have dedicated departments, offices, or government employees specifically tasked with managing DBE programs including the DBE certification process. The specific agency responsible for issuing DBE certification can vary depending on the jurisdiction. Again, it is important to consult the relevant state or local government agency or counsel for guidance.

In contrast to the MWBE program, the DBE certification program identifies a broader group of individuals who belong to other underrepresented groups. These groups include businesses owned by women, individuals with disabilities, LGBTQ individuals, veterans and other economically or socially-disadvantaged individuals who have faced other barriers to business ownership are eligible. DBE certification is linked to U.S. Department of Transportation (USDOT) funded projects. You can access information on DBE programs online.<sup>17</sup> A list of required documentation for certification can vary from state to state and municipalities so consult with counsel or the USDOT for specific instructions and eligibility requirements.

While government agencies are the primary certifiers of MWBE and DBE businesses, there are many non-governmental organizations (NGOs) across the states and in municipalities that also play a crucial role in supporting and certifying these enterprises. These NGOs often focus on specific sectors or communities, offering specialized resources and expertise. They may provide certification services, training programs, mentorship opportunities, and networking platforms to assist MWBE/DBE businesses in navigating the complexities of government contracting and procurement. These organizations usually charge a fee for assistance or require membership in the organization. These organizations may have a specific requirements or a focus area. They do, however, provide valuable resources to MWBE and DBE business owners. Organizations like the National Minority Supplier Development Council (NMSDC) and Women's Business Enterprise National Council (WBENC) both offer national certification programs for minority-owned and women-owned businesses respectively.<sup>18</sup>

We advise you to research these organizations thoroughly, and seek advice from your counsel, to determine if the certification program they offer aligns with your business needs and goals. Additionally, some states and municipalities have their own MWBE and DBE certification

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<sup>17</sup> <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/dbe-laws-policy-and-guidance>; <https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/dbe-regulations>.

<sup>18</sup> National Minority Supplier Development Council (NMSDC): <http://www.mwbe-enterprises.com> and Women's Business Enterprise National Council (WBENC): <http://www.wbenc.org>

programs and may partner with local NGO's to support and certify businesses within their jurisdictions.

### ***Certification Criteria and Process***

The process to becoming certified is detailed. MWBE and DBE certification programs are designed to promote diversity and inclusion in public contracting opportunities. To become certified as a MWBE or DBE, a business must meet certain requirements set forth by the certifying agency. These requirements will vary depending on the type of certification that is being sought and the certification agency. That being said, there are standard minimum requirements that generally focus on the areas listed below and include the following:

- ***MWBE Minority Qualification:***
  - For MWBE certification the business owner must belong to a recognized minority group individuals who are Black/African American, Hispanic/LatinX, Native American, Asian American and women.
- ***DBE Eligibility:***
  - DBE programs consider factors such as socioeconomic disadvantaged individuals and businesses, size of business and financial stability.
- ***Ownership and Operational Control:***
  - The business must be at least 51% owned and controlled by individuals who are considered minorities, women, or disadvantaged.
  - Ownership can be established by presenting documentation such as articles of incorporation, stock certificates, or partnership agreements to the certifying agency.
  - The minority business owner must control the business's daily operations and management.
  - The business must be an independent business that does not rely on its relationships with another firm. In most jurisdictions the business must have been operating for at least one year prior to applying for MWBE/DBE certification.
- ***Size Standards:***
  - Depending on the type of business you are seeking to certify you might be required to meet the size standards required by the certifying organization.
  - Again this standard may vary depending on the organization the business is seeking certification from.
  - The size standards are based on the number of employees, annual sales/profits, or other factors that determine the size of the business.
- ***Personal Net Worth:***
  - For DBE certification, the individual claiming recognition as a disadvantaged business owner must meet certain personal net worth limits in order to verify that the business is in need of assistance.

- It is important to note that the qualifying net worth maximum for the DBE certification program can vary from State to State. Each State may have its own specific requirements and guidelines for determining an individual's or business's net worth eligibility for the program.
  - For example in Florida a qualifying owner(s) cannot have a net worth that exceeds \$2.047 million. In New York State an individual's net worth cannot exceed \$1.32 million.
- *Business Location:*
  - Some state and local certification programs require the business to be physically located in the geographic area served by the certifying organization.
  - The main goals of certification support organizations are to benefit local businesses and promote economic development in the community.
- *Good Standing:*
  - The business must be in good standing with local, state, and federal government entities. Compliance with all tax laws, licensing requirements and any other applicable industry regulations.
- *Experience, Expertise, & Independence:*
  - The business owner must demonstrate to the certification organization that they have experience and expertise in the industry for which they are seeking certification.
  - This can be demonstrated by past projects, references, industry certifications, or any other relevant documentation.
  - The business cannot be dependent on another firm or group of firms.
- *Additional Documentation:*
  - This documentation usually includes tax returns, financial statements, business plans, resumes, and personal identification documents such as birth certificates/ passports.
  - Proof of minority status will be required along with proof of U.S. citizenship/ permanent resident status.
  - The certification organizations scrutinize applications and may request additional documents that are not listed here.
  - The business owner must comply with any requests from the certifying organization.
- *Site Visit:*
  - Depending on the criteria of the certification organization a business site visit may be required.
  - Oftentimes the site visit is scheduled to verify the information provided on the application and to determine if the business is independently owned and operated and not a subsidiary or branch of a larger company.

### ***Key Trends Shaping the MWBE and DBE Future Landscape***

There is an increased focus on outcomes for MWBE and DBE programs and the government agency. Shifting from solely meeting numerical goals to measuring actual impact on economic growth, job creation, and community development. The success metric is becoming more data driven by using data to identify barriers to success and to develop targeted support programs for MWBE and DBE businesses.

There is a discussion taking place within certification organizations regarding the expansion of the eligibility criteria. Creating new categories of disadvantaged businesses, such as those owned by individuals from emerging minority groups or those affected by recent economic crisis. More certification organizations and government agencies are leveraging technology to streamline the certification process, enhance communication, and to provide online resources for businesses. The most important conversation taking place is about strengthening collaboration between government agencies, private businesses, and NGOs to create a more supportive ecosystem for MWBE and DBE growth, sustainability and success.

### ***What Should I Do Next To Explore & Apply for MWBE & DBE Status?***

Today, elected officials and agency leaders at all levels of government have exhaustively promoted the desire to promote opportunities to businesses for those valued government contracts as a key element to promoting equity and inclusion. If you believe that your transportation business may meet the eligibility requirements for MWBE or DBE certification, you should seek counsel on how to apply for these certifications in order to be eligible – or even have an advantage – to compete for these lucrative contracts. The application, supporting corporate and tax documents and proof with compliance are not easy. Moreover, the certifying agencies will painstakingly review each submission and supporting documentation to ensure that these certifications are only issued to those companies meeting each and every requirement. The agencies may also audit to ensure that there is continuing compliance. With the billions of dollars dedicated to MWBE and DBE companies in New York City over the next decade, the increased oversight is not surprising.

The bottom line: these certifications are valuable, but be prepared! The certification process can be time-consuming and plagued by delays. However, even with the rigorous scrutiny businesses undergo, it is worth the effort for eligible business owners. It is critically important to consult legal counsel about becoming a MWBE or DBE certified business prior to filing a certification application. Agencies are under scrutiny to ensure that the MWBE and DBE certifications are awarded to companies that are deserving of the designations. Your counsel can assist you with ensuring that your ownership structure and business model will qualify for MWBE and DBE certifications and creating internal processes and procedures for the ongoing compliance. Once you meet the criteria and obtain such a certification, you will open a new door for revenue opportunities that can be ongoing for years depending on the types of government contract you are seeking for your company.



***Matt Daus with Patricia Gatling, Counsel in the Windels Marx Transportation Practice Group and former Commissioner/Chair of the NYC Human Rights Commission.***

Patricia L. Gatling, the former (and longest serving) Commissioner/Chair of the NYC Human Rights Commission and the former Deputy Secretary for Civil Rights for New York State, and I work on these MWBE and DBE certification applications with the other team members in the Windels Marx Transportation Practice Group. From our experience with clients with the certification applications, you will need to be prepared in advance for a lengthy bureaucratic process. In the end, however, if you meet the criteria for the certification and can also comply with the ongoing certification requirements, the MWBE and/or DBE certifications will help you grow a sustainable business where your company will participate in a more viable – and equitable economy. With appropriate business support and access to more lucrative contracts, your business will be more profitable, successful, and socially beneficial.