

Report of Independent Auditor on SCTRCA's
Internal Controls in the administration of
DBE/ACDBE, HUB and Business
Certifications Policies and Procedures

South Central Texas Regional
Certification Agency (SCTRCA)
Certification Audit

Period July 2020 – June 2022

Revised December 2022

CSI Compliance

**Report of Independent Auditor on SCTRCA's Internal Controls in the administration of DBE/ACDBE,
HUB and Business Certifications Policies and Procedures**

To the Board of Directors, Certification Audit Committee
South Central Texas Regional Certification Agency
San Antonio, Texas

We have examined, in conformity with Generally Accepted Auditing Standards, the SCTRCA's Policies and Procedures with a focus on internal controls for compliance as it relates to all of the certification types issued by the SCTRCA for the time period of July 1, 2020 – June 30, 2022.

Internal Control over Business Certifications

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A **material weakness** is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's practices will not be prevented, or detected and corrected, on a timely basis. A **significant deficiency** is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. Material weaknesses and significant deficiencies were found with SCTRCA internal controls.

Compliance and Other Matters

We performed tests of the entity's compliance with certain governing documents, contracts, policies, laws and regulations, noncompliance with which could have a direct and material effect on business certification determinations. Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that have not been identified.

Purpose of this report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and to provide an opinion on the entity's level of compliance and efficacy of the policies and practices in its certification process. This report provides recommendations to ensure best practices are followed in the certification process. We believe our audit provides a reasonable basis for our opinion on compliance. However, our audit does not provide legal determination of the SCTRCA's compliance. Accordingly, this communication is not suitable for any other purpose.

CSI Compliance, LLC

Round Rock, Texas
December 8, 2022

Schedule of Findings

Part 1 – Summary of Auditor’s opinions and recommendations on compliance with governing documents

By-Laws	
A)	<p>Article IV – Board of Directors</p> <p>Opinion 1: Board member expectations should be clearly defined</p> <p>Recommendation 1: Develop/revise a centralized Board Policy Manual to include, but not limited to, board ethics, codes of conduct, conflicts of interest and training requirements. Revise by-laws as needed to eliminate any direct or perceived conflicts of interest. Develop a formal vendor complaint process to Certification Committee/Board for tracking agency performance.</p>
B)	<p>Article V – Meetings of the Board</p> <p>Opinion 2: The record retention policy adopted in 6/2010 is outdated</p> <p>Recommendation 2: Board committee should review the record retention policy and make updates as needed to reflect the SCTRCA’s current certification process.</p>
C)	<p>Article VII – Committees</p> <p>Opinion 3: Board administration considerations and determinations directly impacting business certifications appear to be made by committee members who have not completed certification training</p> <p>Recommendation 3: The Certification Appeals Committee members, along with other committee members making certification related decisions, should participate in similar training completed by staff in order to make knowledgeable decisions pertaining to business certifications conducted by the SCTRCA.</p>
D)	<p>Article VIII – Contracts, Checks, Deposits, and Funds</p> <p>Opinion 4: Segregation of duties are needed in collection and reconciliation of vendor payments</p> <p>Recommendation 4: Develop/revise financial policies to include, but not limited to, cash management policies and procedures, delegation of authority, access, and segregation of duties functions. Clearly outline internal systems of financial checks and balances and alignment with business certification related income producing activities. Fraud, waste, and abuse policies should also be explored or as recommended by a financial professional. Incorporate separation of functions for vendor collection and reconciliation to board treasurer or other non-staff personnel.</p>
Interlocal Agreement	
E)	<p>Article III – Board of Directors, Powers and Duties</p> <p>Opinion 5: The SCTRCA has ambiguous procurement and contracting procedures</p> <p>Recommendation 5: Draft/revise SCTRCA procurement and contracting procedures for the SCTRCA in accordance with directives in Interlocal Agreement. The board may use templates from member organizations to create a right-sized procurement policy for the agency.</p>
F)	<p>Article IV – Staffing</p>

Opinion 6: Improvements are needed to recruit, retain, train and develop the most experienced staff feasible.

Recommendation 6:

- a) Recruitment
 - 1. Use recruitment features on job boards. Indeed has a paid feature to search and invite applicants to apply by meeting defined criteria. This may generate better responses than waiting on applicants to respond or receiving a high number of unqualified applicants.
 - 2. Update job descriptions to include the desired qualifications and requirements
 - 3. Board should address the void in staff experience with DBE certification processing immediately
- b) Salary
 - 1. The Budget Finance Committee should reevaluate the staff salaries and make adjustments to become more competitive in the industry. Some in-budget options could include a reallocation of the salary percentage between the Executive Director and Senior Specialist, reduce insurance premium contributions to increase salaries for recruitment purposes, or consolidate Specialist positions from three to two with higher salaries for the goal of recruiting more experienced staff.
 - 2. If a budget increase is desired, the board should explore revising contribution amounts for member agencies requiring DBE certification services due to the complexity of federal compliance and onsite visit requirements.
- c) Training
 - 1. With the advancement of virtual training and recorded modules, the Director should look for more frequent staff certification training opportunities. Staff could benefit from financial and business formation training as well.

Part 2- Summary of Auditor’s Compliance Review of DBE/ACDBE, HUB and Business Certifications Policies and Procedures as well as Administration of Said Certifications

Review Period: July 1, 2020 – June 30, 2022

Federal Certification Procedure Compliance

49 CFR Part 26 Subpart E – Certification Procedures	Material Weakness	Significant Deficiency	None
§26.81 Requirements for Unified Certification Programs			
A) UCP Agreement	X		
B) UCP Directory			X
§26.83 Procedures in making certification decisions			
A) Uniform Certification Application			X
B) On-Site Visits			X
C) 30-Day Notification		X	
D) 90-Day Notification			X
E) Annual Updates		X	
§26.85 Interstate certification			
A) Out-of-state DBE Applications			X
B) Entering Information into USDOT’s Ineligibility Database		X	
§26.86 Denials of initial requests for certification			
A) Initial Request Denials	X		
§26.87 Removal of a DBE's eligibility			
A) Removing Existing Certification (Decertification)		X	
§26.88 Summary suspension of certification			
A) Summary Suspension			X
§26.89 Process for certification appeals to the Department of Transportation			
A) Appeals to USDOT			X
§26.91 Actions recipients must take following USDOT certification appeal decisions			
A) Implementing USDOT Appeal Decisions			X
§26.11 Records to keep and report			
A) Record Retention			X

State Certification Procedure Compliance

Discussion
<p>The SCTRCA entered into a Memorandum of Agreement with Texas Comptroller of Public Accounts in June 2022. The review team noted two provisions in the MOA that may need consideration:</p> <ul style="list-style-type: none"> • Notify CPA regarding any changes to M/WBE organization’s certifications requirements that could affect the HUB program certifications, including, but not limited to, extending certification dates and discontinuing providing M/WBEs with said certifications • Identify qualified M/WBE Asian Indian Americans or Asian Subcontinents American business owners as HUB Asian Pacific Americans in the HUB Certification online system
Finding
None
Recommendation
<ul style="list-style-type: none"> • The Certification Committee is considering expanding certification offerings and extending certification dates. Notification to CPA will be required should the board approve any of the proposed actions. • More compliance oversight reviews may be needed with the HUB system and the SCTRCA system based on previous discrepancies with Ethnic field data entries.

Local Certification Procedure Compliance

SCTRCA Business Enterprise Certification Program Policy & Procedures Manual – 4.0 Certification Procedures	Material Weakness	Significant Deficiency	None
4.01 The Certification Process (D)		X	
4.02 Procedures for Certification Denials and Appeals		X	
4.03 Recertification			X
B. Recertification Closing Procedures		X	
3. Previously Certified Vendor Request for Expedited Reinstatement		X	
4.04 Revocation		X	
4.05 Certification Reviews			X
4.06 Site Visits		X	

Part 3- Summary of Certification Files Reviewed

SCTRCA Federal Certification File Review

The certification audit team reviewed ten (10) DBE/ACDBE determinations by the SCTRCA during the review period. Two files were reviewed for compliance with 49 CFR Part 23 and 26 DBE regulations in each of the following categories:

- New Initial Certification
- Denial of Certification
- Annual Update Certification
- Removal of Certification
- Interstate Certification

SCTRCA Local Certification File Review

The certification audit team reviewed twenty (20) local certification determinations by the SCTRCA during the review period. Two files were reviewed for compliance with SCTRCA Business Enterprise Certification Program Policy & Procedure Manual in each of the following certification types:

1. African American Business Enterprise
2. Asian American Business Enterprise
3. Disabled Individual Business Enterprise
4. Emerging Small Business Enterprise
5. Hispanic American Business Enterprise
6. Minority Business Enterprise
7. Native American Business Enterprise
8. Small Business Enterprise
9. Veteran-Owned Business Enterprise
10. Woman-owned Business Enterprise

See file review results in the detailed section of this report.

Table of Contents

Schedule of Findings	2
Part 1 – Summary of Auditor’s opinions and recommendations on compliance with governing documents	2
Part 2 - Summary of Auditor’s Compliance Review of DBE/ACDBE, HUB and Business Certifications Policies and Procedures as well as Administration of Said Certifications	4
Federal Certification Procedure Compliance	4
State Certification Procedure Compliance	5
Local Certification Procedure Compliance	5
Part 3 - Summary of Certification Files Reviewed	6
SCTRCA Information	8
Audit Standards.....	9
CSI Compliance Information.....	10
Quality Assurance	11
Audit Approach	12
Tasks	12
Review Team	12
Stakeholder Interviews	13
Detailed Audit Report	14
Part 1. Auditor’s opinions and recommendations on compliance with governing documents.....	14
Part 2. Compliance Review of DBE/ACDBE, HUB and Business Certifications Policies and Procedures as well as Administration of Said Certifications.....	22
Federal Certification Procedure Compliance	22
State Certification Procedure Compliance	32
Local Certification Procedure Compliance	34
Part 3 Summary of Certification Files Reviewed	38

SCTRCA Information

Incorporated on September 23, 1998, the SCTRCA is a non-profit 501(c)(3) corporation established by certain local governments and other qualified entities (“Participants”), who entered into an Interlocal Cooperation Agreement in the same year for the purpose of receiving, reviewing, auditing and certifying applications for disadvantaged, minority and/or women-owned businesses for the Participants.

The SCTRCA provides services to San Antonio and certain surrounding counties, as determined from time to time, in accordance with the Texas Unified Certification Program (“TUCP”) and SCTRCA Board Policy and Procedures. The SCTRCA governing board consists of designated representatives of the Participants and has an annual budget of approximately \$400,000.

In furthering its Mission, the SCTRCA is committed to promoting the utilization of small, disadvantaged, minority and woman-owned businesses. The SCTRCA maintains a directory, SCTRCA Directory, which is a listing of active firms with certifications for the following designations: DBE/ACDBE and S/M/W/V/DI. There are presently approximately 474 DBE/ACDBE certified firms and 2,949 S/M/W/V/DI certified firms listed in the SCTRCA Directory.

Certifications Issued by SCTRCA:

1. African American Business Enterprise (AABE)
2. Asian American Business Enterprise (ABE)
3. Disabled Individual Business Enterprise (DIBE)
4. Emerging Small Business Enterprise (ESBE)
5. Hispanic American Business Enterprise (HABE)
6. Minority Business Enterprise (MBE)
7. Native American Business Enterprise (NABE)
8. Small Business Enterprise (SBE)
9. Veteran-Owned Business Enterprise (VBE)
10. Woman-owned Business Enterprise (WBE)
11. Disadvantaged Business Enterprise (DBE)
12. Airport Concession Disadvantaged Business Enterprise (ACDBE)
13. Historically Underutilized Business (HUB)

Audit Standards

The SCTRCA Certification Audit Request for Proposal noted preparation of Independent Auditor's Report in conformity with Generally Accepted Auditing Standards (GAAS). The GAAS principles include ten standards approved and adopted by the membership of the American Institute of Certified Public Accountants (AICPA), as amended by the AICPA Auditing Standards Board (ASB). The scope of the SCTRCA Certification Audit is not financial in nature but this report will follow principles of GAAS as far as practicable¹.

General Standards

- The auditor must have adequate technical training and proficiency to perform the audit.
- The auditor must maintain independence in mental attitude in all matters relating to the audit.
- The auditor must exercise due professional care in the performance of the audit and the preparation of the report.

Standards of Field Work

- The auditor must adequately plan the work and must properly supervise any assistants.
- The auditor must obtain a sufficient understanding of the entity and its environment, including its internal control, to assess the risk of material misstatement of the financial statements whether due to error or fraud, and to design the nature, timing, and extent of further audit procedures.
- The auditor must obtain sufficient appropriate audit evidence by performing audit procedures to afford a reasonable basis for an opinion regarding the financial statements under audit.

Standards of Reporting

- The auditor must state in the auditor's report whether the financial statements are presented in accordance with generally accepted accounting principles.
- The auditor must identify in the auditor's report those circumstances in which such principles have not been consistently observed in the current period in relation to the preceding period.
- When the auditor determines that informative disclosures are not reasonably adequate, the auditor must so state in the auditor's report.
- The auditor must either express an opinion regarding the financial statements, taken as a whole, or state that an opinion cannot be expressed in the auditor's report. When the auditor cannot express an overall opinion, the auditor should state the reasons therefore in the auditor's report. In all cases where an auditor's name is associated with financial statements, the auditor should clearly indicate the character of the auditor's work, if any, and the degree of responsibility the auditor is taking, in the auditor's report.

¹ CSI Compliance's scope did not include a review of financial statements. CSI Compliance is not affiliated with or is a member of the AICPA.

CSI Compliance Information

Technical Qualifications

Contract Service Innovations is an African American, Minority-owned, DBE (City of Austin) certified firm organized as a Pennsylvania Limited Liability Company doing business as *CSI Compliance, LLC* in the Austin area of Texas. CSI focuses on program compliance management and training for public systems to facilitate a more effective and efficient service delivery. What separates CSI from the pack is our breadth of real-life solutions to real-life situations because we have been there as compliance practitioners, auditors, and trainers for the federal government.

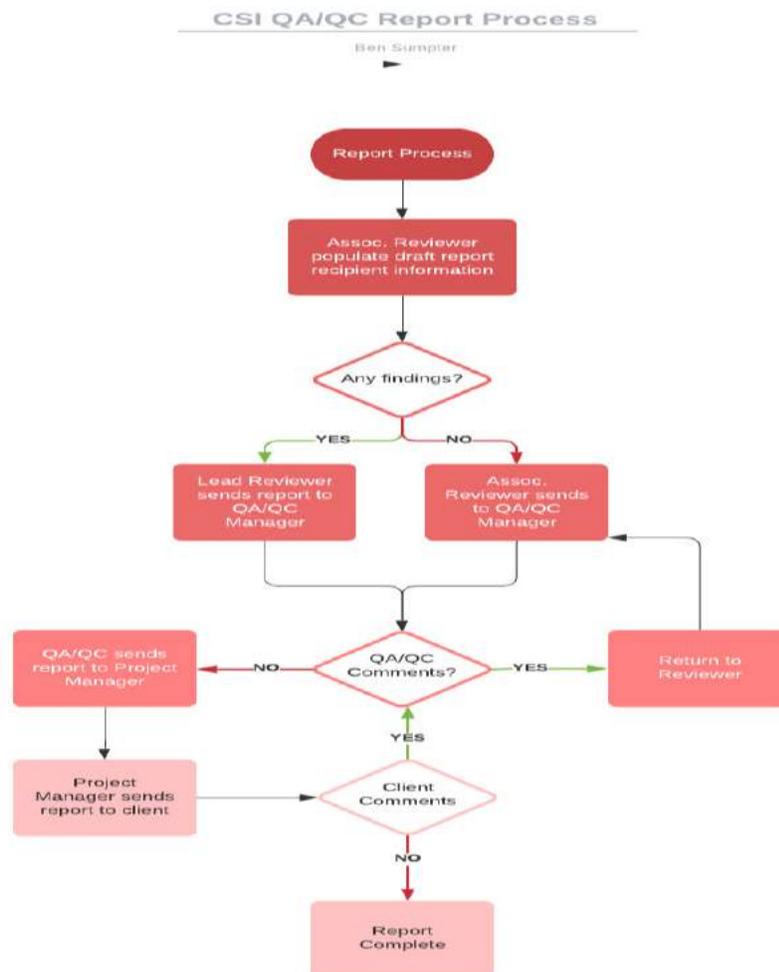
Since 2015, CSI Compliance has provided staffing, compliance and training services for agencies receiving Federal Transit Administration (FTA), Federal Highway Administration (FHWA) and Federal Aviation Administration (FAA) funding. CSI Compliance conducts performance and compliance assessments to discover root causes for challenges within an organization. The firm also provides technical assistance and implementation solutions for transportation and other public organizations. Led by Managing Principal, Benjamin Sumpter, CSI Compliance has grown from a team of one to a team of six full-time consultants providing services from New York to Alaska. CSI Compliance has been engaged by several certification agencies over the years to conduct Unified Certification Program (UCP) staff training to include the Texas, Ohio, Missouri, North Carolina, and California UCPs.

Prior to starting CSI Compliance, Benjamin Sumpter served over a decade for a Certified Public Accounting firm conducting oversight compliance reviews for various modes of the U.S. Department of Transportation (USDOT). In 2009, the USDOT initiated UCP Compliance Reviews for the FTA, FHWA and FAA with FTA as the contract lead. Mr. Sumpter designed the review protocols and lead the first multi-modal UCP reviews for USDOT. He served as lead reviewer for UCP reviews in Texas, Utah, North Carolina, California, Florida, Virginia, Massachusetts, Oregon, North Dakota, Colorado, Washington, Georgia, New York, Minnesota, and Illinois. These UCP reports are available for review on FTA's Civil Rights/DBE/Compliance Reviews webpage.

Mr. Sumpter has also conducted DBE Compliance reviews at many large transit, airports, and state departments of transportation throughout the country. He served as the DBE Program Instructor for the National Transit Institute for over ten years and is nationally known as an expert in DBE program implementation. Mr. Sumpter has directly performed federal level certification functions as a Business Analyst for the U.S. Small Business Administration (8a) program and as an Executive Director for a Regional Certification Agency.

Quality Assurance

CSI Compliance has completed numerous reports for federal, state and local governments. We follow a stringent review process for summary reports. All draft and final reports will go through a quality control and quality assurance process by the QA/QC Manager/Project Manager. The Associate Reviewer will prepare the draft/final report template with the appropriate contact heading and applicable recipient language. If there were no findings during the compliance review, the Associate Reviewer will forward the report to the QA/QC Manager for quality review. If there are comments, the QA/QC Manager will return the report to the Reviewer. This shall serve as a separation of duties, so the Lead Reviewer is not performing a quality check on their own report. The Lead Reviewer will draft reports that have findings and forward them to the QA/QC Manager for review. The QA/QC Manager will clearly identify the comments/grammatical corrections in the report and ensure that the reviewer addresses these issues before progressing to the final draft of the report. The Project Manager will forward the report to the client for approval. If the client has comments on the report, the Project Manager will return the report to the Lead Reviewer to perform a second quality check and address comments/questions. See flow chart below for a visual of the quality assurance process



Audit Approach

Tasks

	Tasks	Proposed Hours	Project Manager	Lead Reviewer	Assistant Reviewer
1	Notice to Proceed	0	0	0	0
	Schedule Kick-off Meeting	2	2	0	0
	Prepare Document/Certification Requests	2	2	0	0
	Access/Review of Certification System	4	1	2	1
2	Review of Policies/Procedures	24	8	8	8
	Interview Board Committee/Staff	2	1	1	0
3	Review State/Local Certification Files (20)	40	0	20	20
4	Review Federal Certification Files (10)	40	0	20	20
5	Document Follow up/Clarification Questions	12	2	6	4
6	Compile Recommendations	8	4	4	0
7	Complete Internal Draft Report	24	4	16	4
8	Quality Assurance Review	8	8	0	0
9	Submit Certification Audit Report	2	2	0	0
10	Ad Hoc Certification Audit Committee Briefing	2	2	0	0
	Board of Directors Presentation. Project End.	2	2	0	0
Total Hours		172	38	77	57

Review Team

Name	Project Role	Position	Education/Certifications	Experience
Benjamin Sumpter	Project Manager	Managing Principal	<ul style="list-style-type: none"> Master of Public Administration Bachelor of Arts - Communication/Sociology Master Compliance Administrator 	23 yrs.
Erick Wilkes	Lead Reviewer	National Director of Certification	<ul style="list-style-type: none"> Master of Public Administration Master of Business Administration Bachelor of Arts - Spanish 	15 yrs.
Elizabeth Michael	Assistant Reviewer	Compliance Manager	<ul style="list-style-type: none"> Master of Arts – HR Development Bachelor of Arts – Organizational Communications 	15 yrs.

Stakeholder Interviews

Board Committee

Board Member	Sub-Committee Position	Organization
Torence White	Chair-Certification and Appeals Committee	Alamo Colleges District
Renee Watson	Chair-Certification Audit Committee	Bexar County
Maurice Bridges	Certification Audit Committee	VIA
Barbara Patton	Certification Audit Committee	City of San Antonio- Aviation
James Massey	Certification Audit Committee	CPS Energy

Committee Comments/Concerns

- Concerned about database discrepancies
- More periodic onsite visits for local certification program participants
- Implement internal controls for data input and certification determination output
- More board oversight and board of directors training
- More staff training needed on certification requirements
- Increase staff compliance with federal certification requirements and inform board of regulatory updates
- Concerned about questionable certification determinations
- Some had no certification eligibility concerns but wanted to ensure the validity of the database
- Concerned about SCTRCA expanding certification types, i.e. joint ventures
- More funding needed for experienced staff recruitment and development

SCTRCA Staff Interviews



Staff Name	Position
Charles Johnson	Executive Director
Janie Romero	Certification Specialist
Mida Tijerina	Certification Specialist

Detailed Audit Report

Part 1. Auditor's opinions and recommendations on compliance with governing documents

Governing Jurisdiction

Texas Government Code
Texas Local Government Code
49 CFR Parts 23 and 26
Local Ordinances

Applicable Information Reviewed

SCTRCA Inter-Local Agreement
SCTRCA Amended By-Laws
Board Agendas/Minutes

By-Laws

A) Article IV – Board of Directors

Opinion 1: Board member expectations should be clearly defined

Background: The By-Laws of the SCTRCA amended January 13, 2017, specify the affairs of the corporation shall be managed by its Board of Directors. Each participant to the Interlocal Agreement shall appoint one representative and one alternate to serve in the place of that representative in the event he/she is unavailable to serve on the board.

Meetings shall be governed by Robert's Rules of Order, as may be determined by the Board of Directors from time to time, insofar as such rules are not inconsistent with or in conflict with these By-Laws, the Articles of Incorporation or this Corporation, or provisions of law.

Discussion: More detail is needed to outline board expectations as it relates to service provisions, conduct and conflicts. The language at, Section 8.4 The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest or devise for the general purposes or for any special purpose of the Corporation., gives the appearance that a director may accept gifts. The Interlocal Agreement also has language on conflicts at 9.3 Conflict of Interest.

A draft SCTRCA Governance Policy was presented at the August 22, 2022 board meeting. There was also a special board meeting for a board orientation on March 28, 2022. The March 2022 orientation discussions included reading and understanding financials, Roberts Rules of Order, history of the SCTRCA, Board of Directors Handbook, and legal review on Texas Open Records Act. It was not clear during the review if the contents of the SCTRCA Governance Policy and the Board of Directors Handbook were similar.

Recommendation 1: Develop/revise a centralized Board Policy Manual to include, but not limited to, board ethics, codes of conduct, conflicts of interest and training requirements. Revise by-laws as needed to eliminate any direct or perceived conflicts of interest. Develop a formal vendor complaint process to Certification Committee/Board for tracking agency performance.

B) Article V – Meetings of the Board

Opinion 2: The record retention policy adopted in 6/2010 is outdated

Background: The by-laws read at Section 5.6, Every regular, special or called meeting of the SCTRCA Board shall be open to the public, except as provided in the Texas Open Meetings Act, Chapter 551 of the Government Code V.T.C.A. The SCTRCA Board shall prepare and keep minutes or make an audio tape recording of each open meeting which must state the subject of each deliberation and indicate each Board vote, order, decision or other action taken. These records shall be kept in conformity with the SCTRCA Records Retention Policy.

Discussion: The SCTRCA has a detailed record retention policy that was drafted to comply with the Local Government Code. The record retention schedule correctly outlines the types of records to retain and the retention period. However, the chart includes a column for “DBE Retention Period” that included some retention years that may not reflect the current certification process. The SCTRCA has moved to an electronic certification process and amendments maybe be needed to conform to the Texas Government Code and DBE federal requirements.

Recommendation 2: Board committee should review the record retention policy and make updates as needed to reflect the SCTRCA’s current certification process.

C) Article VII – Committees

Opinion 3: Board administration considerations and determinations directly impacting business certifications appear to be made by committee members who have not completed certification training

Background: Section 7.1 reads, The Board Chairperson shall appoint all Committee Chairpersons except the Finance Committee Chair who is the Treasurer of the Board. Only Representatives are eligible to Chair a committee. Alternates may only serve in the absence of their designated Representative.

Discussion: Several committees were tasked with creating policy and procedures for business certifications. The federal DBE program requires staff and any persons involved in the certification process to complete USDOT offered training modules. This is not required for the local certification program but could serve as a resource for committee members to obtain foundation training on the certification process. There is also a standing committee for certification appeals for the local and federal certification programs. The Interlocal Agreement notes under 3.2 Powers of the Board, for members to consider appeals filed by the prospective D/M/WBEs who have been denied certification.

During stakeholder interviews, it did not appear that appeal committee members had completed the required USDOT training modules or regularly attended the annual Texas Unified Certification Program Training. No appeal hearings were conducted during the July 2020 to June 2022 review period.

Below are some business certification related considerations by committee members in 2022:

Certification/Appeals Committee

- Extend renewal certification from 2 years to 4 years – August 19, 2022 Committee Agenda
- Adding the LGBTQ as a Certification – August 19, 2022 Committee Agenda
- Adding Joint Venture as a Certification – Stakeholder Interviews

Policy, Procedure and Personnel Committee

- Briefing and Discussion on current SCTRCA Policies – July 18, 2022 Committee Agenda

Ad-Hoc Certification Audit Committee

- Briefing, Discussion and Consideration to develop an RFP for 2022 Auditing Services for Internal Controls for DBE, HUB and Business Enterprise Certification, to include Certification Policies and Procedures – July 22, 2022 Committee Agenda

Recommendation 3: The Certification Appeals Committee members, along with other committee members making certification related decisions, should participate in similar training completed by staff in order to make knowledgeable decisions pertaining to business certifications conducted by the SCTRCA

D) Article VIII – Contracts, Checks, Deposits, and Funds

Opinion 4: Segregation of duties are needed in collection and reconciliation of vendor payments

Background: By-laws at 8.3 read, All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the Board may select.

Discussion: Vendor fees are derived from out of jurisdiction certification requests and reinstatement of lapsed renewals. There appears not to be controls in place to monitor or clear separation of functions by staff for the collection of vendor fees for lapsed renewals. The Executive Director reports on vendor revenue under the Finance Committee Report at the full board of directors meetings. The Executive Director reported on B2G payments received and corrections to be made through the reconciliation process in the August 22, 2022 Board Minutes. See also July 21, 2022 board agenda on briefing and discussion on vendor revenue for April, May and June 2022.

Recommendation 4: Develop/revise financial policies to include, but not limited to, cash management policies and procedures, delegation of authority, access, and segregation of duties functions. Clearly outline internal systems of financial checks and balances and alignment with business certification related income producing activities. Fraud, waste, and abuse policies should also be explored or as recommended by a financial professional. Incorporate separation of functions for vendor collection and reconciliation to board treasurer or other non-staff personnel.

Interlocal Agreement

E) Article III – Board of Directors, Powers and Duties

Opinion 5: The SCTRCA has ambiguous procurement and contracting procedures

Background: Interlocal Agreement 3.2 The Board of Directors shall have all of the powers allowed by the Act, as amended, and the powers of a non-profit corporation allowed by federal, state or local law, including but not limited to the following powers to: (J) Contract for goods and services reasonably necessary for the execution of the powers conferred herein, including insurance coverage for the liabilities associated herewith, consistent with approved budget (O) Establish procurement and contracting procedures for the SCTRCA.

By-laws Article VIII Contracts, Checks, Deposits, and Funds 8.1 The Board may authorize any officer or officers, agent or agents of the corporation, in addition to the officers so authorized by these by-laws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

Discussion: The SCTRCA Procurement and Contracting Procedures were requested during the review for compliance with the Interlocal Agreement. The naming convention for the file was “SCTRCA Procurement Policy for SCTRCA current as of 3-25-2011.”

The one-page document was in outline format and appeared to be incomplete. The document pulled some language from the interlocal agreement on purchasing thresholds and responsibilities. The procurement policy is missing key elements in the procurement and contract administration process. Some key procurement provisions include contract oversight, standards of conduct, procurement history, independent cost estimates, cost/price analysis, term limits, full and open competition and procedures for procurement transactions. Some member agencies received federal funds which includes required flow down contract provisions² to subrecipients and contractors. The SCTRCA may be considered a federally funded subrecipient for the implementation of DBE certification.

The SCTRCA had the following procurements and/or contracts active at the time of the review:

- Legal Services
- Financial Audit Services
- Certification Audit Services
- Certification Vendor Management Software
- Documentation/Printer Vendor Services
- Stamp Machine Vendor Services
- Payroll Vendor Services

² Policies and procedures must explain how the recipient will ensure compliance with the standards and requirements identified in 2 CFR 200.318 (General Procurement Standards) through 200.327 (Contract Provisions).

Recommendation 5: Draft/revise SCTRCA procurement and contracting procedures for the SCTRCA in accordance with directives in Interlocal Agreement. The board may use templates from member organizations to create a right-sized procurement policy for the agency.

F) Article IV – Staffing

Opinion 6: Improvements are needed to recruit, retain, train and develop the most experienced staff feasible.

Background: Section 4.1 Within the budgetary and staffing guidelines established by the Board, the Executive Director shall employ a staff whose duties shall be to:

- A) Receive and review certification forms from prospective D/M/WBEs.
- B) Conduct site visits.
- C) Performs such other acts necessary to evaluate prospective D/M/WBEs for certification.
- D) Grant initial certification or denial to D/M/WBE applicants; and
- E) Perform related services as deemed appropriate pursuant to policy directives established by the Board of Directors consistent with this Agreement.

Discussion: Day-to-day administration of the agency is delegated to the Executive Director. The Board should not be involved with staff employment functions by the Director. However, the board should provide all the tools and resources to the Director to hire staff that meet the objectives of the agency. To this end, the Board must recruit the most qualified Executive Director that will employ experienced staff and provide training where needed to implement the policy directives.

The SCTRCA Board of Directors were in search of an Executive Director during performance of the Certification Audit. The job description of the proposed Executive Director was posted on the agency's website. Three items in the job description listed under "Essential Job Functions" will be critical in the agency's success with meeting its objectives. These three items were also collective concerns expressed by committee members during the stakeholder interviews.

1. Remain abreast of developments in regulations, court decisions, best practices, and agency policies and procedures as they relate to DBE/ACDBE, SMWVBE and HUB activities for staff development.
 - The USDOT has issued a notice of proposed rulemaking in the DBE regulations. Committee members expressed an interest in the SCTRCA briefing member agencies of certification impacts in the proposed changes.
2. Review and approve or deny certification applications on behalf of the SCTRCA in accordance with SCTRCA policies and procedures and all applicable, local state and federal law.
 - The current Executive Director does not approve or deny initial certifications applications as stated during the staff interviews. However, the Director mentioned being familiar with all applications submitted to the agency.
3. Maintain accuracy of the certified and registered vendor database.

- Several database discrepancies were noted by committee members and were confirmed by the Director during the stakeholder interviews. The Director expressed during the interview that the discrepancies had been addressed to the best of their knowledge.

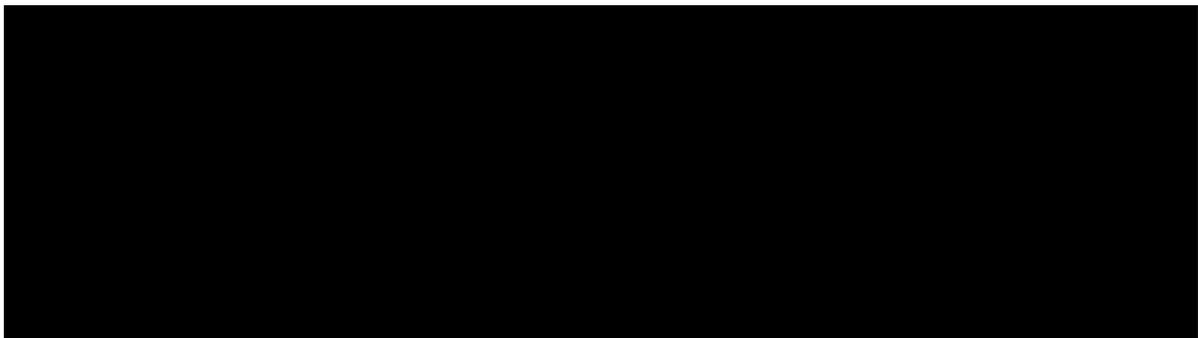
The review team additionally requested job descriptions and resumes for the certification staff. The purpose of the request was to confirm that the resumes of current staff met the requirements in the job descriptions. The In-Take Clerk, Certification Specialist and Senior Certification Specialist job descriptions were reviewed. However, the job descriptions provided included the duties and responsibilities but not the minimal/desired qualifications.

The review team looked at several factors that have an impact on the staff at the SCTRCA.

a) Recruitment

The Executive Director uses job boards such as Indeed to advertise certification positions at the SCTRCA. It appears a two-year or four-year degree is not required for the Certification Specialist position based on the resumes of current/former staff. Most of the staff resumes had customer service backgrounds with no previous certification experience. Industry standard is to hire a skill set and conduct on-the-job training to build business certification knowledge. The resumes of current and former Certification Specialists ranged from some college to a Bachelors degree. The career path appears to start at the Intake Clerk position and move on to a Certification Specialist position after one to one and a half years.

The chart below outlines staffing trends since the Executive Director was hired by the Board in 2017. The average employment is three years. The Senior Certification Specialist had federal (DBE) certification responsibilities and the position was vacant at the time of the review. This appears to have created a void in staff with DBE processing experience. The two current Certification Specialists previously had local (SMWBE) certification responsibilities. One of the Specialist was moved to processing federal (DBE) certifications to cover the Senior Specialist position. The said Certification Specialist had the federal responsibility for one week during the staff interviews.



b) Salary/Wages/Benefits

The SCTRCA fiscal year 2022 revenue budget is \$410,150. The total budgeted wages are \$221,500 or 54% of the revenue. The three budgeted Certification Specialist positions range from \$33,932 (\$16.31/hr) to \$44,136 (\$21.22/hr). The Executive Director’s salary budget is 51% higher than the high-end range of the Specialist position.

A peer and national salary comparison was conducted by the review team. Corpus Christi Regional Transportation Authority (CCRTA) is a TUCP member and had an active job opportunity for a DBE Certification Specialist position at the time of the review. Aligned with industry practice, the job description does not require previous DBE certification experience but does require an Associates degree and critical thinking skills along with other skills. The advertised wage for the CCRTA position is \$22.60/hr or \$47,008/yr.

The SCTRCA Certification Specialist salary is below the Texas average salary for this position. At this salary range, it is unlikely that the SCTRCA would be able to recruit an experienced Certification Specialist from another state. The salary range for the peer (CCRTA) opening is above the Texas average salary range. See chart to right.

The SCTRCA does pay 100% of insurance premiums benefit which is above the industry standard of 50%. The FY2022 health insurance budgeted line item is \$32,594.

Certification Specialist Salaries

1	New York	\$76,859	\$36.95
2	District of Columbia	\$67,301	\$32.36
3	Rhode Island	\$74,340	\$35.74
4	Maryland	\$67,108	\$32.26
5	Delaware	\$66,349	\$31.90
6	Pennsylvania	\$61,818	\$29.72
7	New Jersey	\$76,825	\$36.94
8	Virginia	\$59,624	\$28.67
9	Massachusetts	\$66,428	\$31.94
10	California	\$60,559	\$29.11
11	Connecticut	\$69,175	\$33.26
12	Ohio	\$62,603	\$30.10
13	Vermont	\$52,282	\$25.14
14	West Virginia	\$52,995	\$25.48
15	Maine	\$53,859	\$25.89
16	Michigan	\$55,946	\$26.90
17	New Hampshire	\$54,080	\$26.00
18	Nevada	\$51,712	\$24.86
19	Arizona	\$45,593	\$21.92
20	Louisiana	\$49,629	\$23.86
21	Georgia	\$52,802	\$25.39
22	Wisconsin	\$52,476	\$25.23
23	Texas	\$45,096	\$21.68

Source: Zippa

c) Training/Development

As previously mentioned, most of the training for Certification Specialist at the SCTRCA is on-the-job training. The Executive Director is the primary training facilitator for Certification Specialists. The Director has attended national conferences with an emphasis on M/W/DBE program implementation. The Airport Minority Advisory Council (AMAC) has an annual certification module training program. The Director mentioned attending these AMAC training courses and personally providing training for staff. Staff additionally attend annual Texas UCP training for DBE certification requirements.

USDOT Certification Module Training is required for all persons involved in DBE certification determinations. The review team confirmed that immediate staff had completed the required module training. The budget is \$500 for Staff Development Pay. This is not commensurate with the budgeted amount for wages.

Recommendation 6:

a) Recruitment

- 1. Use recruitment features on job boards. Indeed has a paid feature to search and invite applicants to apply by meeting defined criteria. This may generate better responses than waiting on applicants to respond or receiving a high number of unqualified applicants.**
- 2. Update job descriptions to include the desired qualifications and requirements**
- 3. Board should address the void in staff experience with DBE certification processing immediately**

b) Salary

- 1. The Budget Finance Committee should reevaluate the staff salaries and make adjustments to become more competitive in the industry. Some in-budget options could include a reallocation of the salary percentage between the Executive Director and Senior Specialist, reduce insurance premium contributions to increase salaries for recruitment purposes, or consolidate Specialist positions from three to two with higher salaries for the goal of recruiting more experienced staff.**
- 2. If a budget increase is desired, the board should explore revised contribution amounts for member agencies needing DBE certification due to the complexity of federal compliance and onsite visit requirements.**

c) Training

- 1. With the advancement of virtual training and recorded modules, the Director should look for more frequent staff certification training opportunities. Staff could benefit from financial and business formation training as well.**

Part 2. Compliance Review of DBE/ACDBE, HUB and Business Certifications Policies and Procedures as well as Administration of Said Certifications

Federal Certification Procedure Compliance

Governing Jurisdiction

As direct or indirect recipients of federal funding assistance, the UCP and its members (i.e., USDOT recipients within the state) must comply with the DBE regulations at 49 CFR Part 26 as a condition associated with the use of these funds. The DBE regulations formed the basis for this specialized review; those regulations define the certification eligibility requirements that must be addressed and incorporated in the Texas UCP agreement.

Applicable Information Reviewed

- Texas Memorandum of Agreement for DBE UCP
- Texas UCP Standard Operating Procedures
- Texas UCP Directory
- SCTRCA B2G Database Records
- USDOT Ineligibility/Appeals Database

49 CFR Part 26 Subpart E – Certification Procedures

§26.81 Requirements for Unified Certification Programs

A) UCP Agreement

Basic Requirement (49 CFR §26.81(a))

All USDOT recipients in a state must participate in a Unified Certification Program (UCP). Recipients in a state must sign an agreement establishing the UCP for that state and submit the agreement to the Secretary for approval. The agreement must specify that the UCP will follow all certification procedures and standards of this part, on the same basis as recipients; that the UCP shall cooperate fully with oversight, review, and monitoring activities of DOT and its operating administrations; and that the UCP shall implement DOT directives and guidance concerning certification matters.

Discussion
The [UCP] agreement shall also commit recipients to ensuring that the UCP has sufficient resources and expertise to carry out the requirements of this part (49 CFR §26.81(a)(2)). Based on findings noted in this audit report, the SCTRCA does not have sufficient staff that have the technical knowledge to administer DBE certifications. There are no written internal controls in place to prevent staff from issuing erroneous certification determinations.
Finding
Material Weakness
Recommendation
1) Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process. 2) Develop a corrective action plan to supplement the lack of staff with DBE technical knowledge

B) UCP Directory

Basic Requirement (49 CFR §§23.31, 26.31, and 26.81(g))

UCPs must maintain a unified DBE directory containing, for all firms certified by the UCP, the information required by §26.31. The directory must include if the firm is an ACDBE, a DBE, or both. The listing must include for each firm its address, phone number, and types of work the firm has been certified to perform as a DBE. The UCP must update the electronic version of the directory by including additions, deletions, and other changes as soon as they are made.

Discussion
The SCTRCA database/TUCP directory contained the minimum requirements for each DBE firm which included its address, phone number, and types of work the firm has been certified to perform as a DBE. The review team did find discrepancies in reports concerning ethnicity and gender designations. However, there were no issues that directly impacted the DBE directory information. The SCTRCA internal directory had a separate "Ethnicity (DBE)" field that corresponded with the DBE certification type.
Finding
None
Recommendation
None

§26.83 Procedures in making certification decisions

A) Uniform Certification Application

Basic Requirement (49 CFR §26.83(c)(2))

UCPs must use the Uniform Certification Application (UCA) in Appendix F of 49 CFR Part 26 without change or revision. However, a UCP may, with the approval of the concerned operating administration, supplement the form by requesting additional information not inconsistent with the DBE regulations.

Discussion
The SCTRCA has the appropriate UCA on its website. This form was adopted by the TUCP
Finding
None
Recommendation
None

B) On-Site Visits

Basic Requirement (49 CFR §26.83(c)(1))

UCPs must perform an on-site visit to the principal office location of the applicant firm. The UCP must interview the principal officers of the firm and review their résumés and/or work histories. The UCP must also visit a job site, if there is one, at which the firm is working at the time of the

eligibility evaluation in the UCP’s jurisdiction or local area.

Discussion
The TUCP adopted a uniform on-site visit form for all certifying participants to use. The review team ran a report in the SCTRCA database of new DBE approved applications during the review period 7/1/2020 to 6/30/2022. The SCTRCA “Field Audit/Site Visit” directory field included dates for 38 out of 39 records. The one record without a date was an out of state firm.
Finding
None
Recommendation
None

C) 30-Day Notification

Basic Requirement (49 CFR §26.83(l))

The UCP must advise each applicant firm within 30 days of receiving the application and accompanying documents whether the application package is complete and suitable for evaluation and, if not, what additional information or action is required.

Discussion
If the UCP’s staff determines that an application is not complete, it should, within 30 days from receipt of the application, under 49 C.F.R. § 26.83(1), record the date on which it reached that determination for tracking purposes and notify the applicant about the additional information or actions that are required to complete the application. Upon receipt of additional information, the UCP, within a reasonable amount of time, not to exceed 30 days, should again determine whether the application is complete, record the date, and so notify the applicant. Source: USDOT Questions & Answers
The review team ran a report in the SCTRCA database of new DBE approved applications with an emphasis on the “Application Received Letter” field during the review period. The controlled field was null meaning no entries were made for this 30-day notification.
Finding
Significant Deficiency
Recommendation
<ol style="list-style-type: none"> 1) Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process. 2) Conduct periodic compliance reports to ensure the 30-day notification process is completed by staff

D) 90-Day Notification

Basic Requirement (49 CFR §26.83(k))

The UCP must make decisions on applications for certification within 90 days of receiving from the applicant firm all information required under the DBE regulations. The UCP may extend this time period once, for no more than an additional 60 days, upon written notice to the firm, explaining fully and specifically the reasons for the extension.

Discussion
The 90-day clock starts once all the information requested in the certification checklist has been submitted to the Certification Specialist. The review team ran a report controlling for processing time for new DBE approved applicants during the review period. The processing time averaged 85 days from application receipt which means the time could be even shorter giving that some applications were submitted with missing information.
Finding
None
Recommendation
None

E) Annual Updates

Basic Requirement (49 CFR §26.83(h)-(j))

Once the UCP has certified a DBE, it must remain certified until and unless the UCP removes its certification. The UCP may not require DBEs to reapply for certification or undergo a recertification process. The certified DBE must provide to the UCP, every year on the anniversary of the date of its certification, an affidavit sworn to by the firm’s owners before a person who is authorized by state law to administer oaths. If the certified firm fails to comply with the annual submission requirement, it will be deemed to have failed to cooperate under §26.109(c). Failure or refusal to cooperate is grounds for removing a firm’s certification under §26.87.

Discussion
The review team ran a report controlling on the “Renewal/Recertification Letter” field for new DBE applications approved during the review period. The control field was null meaning no entries were made for this field. The “First Renewal Warning Letter” and subsequent fields were all null. There appeared to be no internal controls for documenting completion of the renewal process.
Finding
Significant deficiency
Recommendation
<ol style="list-style-type: none"> 1) Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process. 2) Conduct periodic compliance reports to ensure the renewal/ renewal notification process is completed and documented by staff 3) Revise database field terminology to align with regulatory updates from “renewal” to “annual update”

§26.85 Interstate certification

A) Out-of-state DBE Applications

Basic Requirement (49 CFR §26.85)

The interstate certification rule applies when any firm that is currently certified in its home State

("State A") seeks DBE certification in another State ("State B"). The DBE regulations do not permit State B to require the certified DBE to submit a new uniform certification application as if it were seeking certification for the first time. State B should process each application for interstate certification, on a case-by-case basis, using the two options described in §§26.85(b) or 26.85(c):

Option 1: Proceed under §26.85(b) to confirm current home-state certification and certify the firm. State B may verify by checking State A's directory (preferable) or obtaining State A's written confirmation.

Option 2: Proceed under §26.85(c) and notify the Applicant-DBE that it must provide all of the information required by §26.85(c)(1)-(4). State B may require the applicant-DBE to submit only the information described in section §26.85(c). The regulations require the applicant to submit an affidavit that all of the information it submitted to State B is a complete and identical copy of the information submitted to State A. If the on-site report from State A is more than three years old, as of the date of its application to State B, the regulations permit State B to require that the firm's affidavit to affirm that the facts in the on-site report remains true and correct.

Discussion
The review team ran a report in the SCTRCA database system controlling for DBE interstate certifications completed during the review period. There were approximately nine interstate certifications processed during the review period. All nine appeared to be processed within the 60-day timeframe.
Finding
None
Recommendation
None

B) Entering Information into USDOT's Ineligibility Database

Basic Requirement (49 CFR §26.85(f))

If the UCP denies a firm's application, reject the application of a firm certified in State A or any other State in which the firm is certified, or decertify a firm, in whole or in part, you must make an entry in USDOT's Ineligibility Determination Online Database. The UCP must enter the following information:

- The name of the firm.
- The name(s) of the firm's owner(s).
- The type and date of the action.
- The reason for the action.

Discussion
The USDOT Ineligibility Determination Online database allows end users to search Decertified DBEs, Denials and DBE appeal decisions. The review team queried the USDOT's Database for SCTRCA entries from 7/2020 to 10/2022 (to account for any late uploads). The review team also ran a report in the SCTRCA database to cross reference denial and decertification information. Despite having many

denials and decertifications during the review period, there were no uploads to the USDOT database from the SCTRCA.

Finding

Significant Deficiency

Recommendation

- 1) Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process.
- 2) Conduct periodic compliance reports to ensure the ineligibility database information is uploaded according to federal regulations.

§26.86 Denials of initial requests for certification

A) Initial Request Denials

Basic Requirement (49 CFR §26.86(a))

When a UCP denies a request by a firm that is not currently certified with it, to be certified as a DBE, the UCP must provide the firm a written explanation of the reasons for the denial, specifically referencing the evidence in the record that supports each reason for the denial. When a firm is denied certification, the UCP must establish a timeframe of no more than 12 months before the firm may reapply for certification.

Discussion

The review team ran a report in the SCTRCA system controlling for DBE denials during the review period. There were approximately 11 DBE (and one ACDBE) initial application denials during the review period. The “Denied Letter” field was null for 6 of the 12 records. All six of these records were for failure to cooperate as noted in the “Final Decision Reason” field. However, a copy of the language in the letter was pasted in the “Final Decision Reason” which included the date. It is still important to include the “Denied Letter” date in the appropriate field for querying purposes.

The remaining 6 records were for TOBIN Engineers (did not meet socially disadvantaged business requirements for DBE/ACDBE), Tx Lonestar Hauler (failed to provide post site visit documentation), Bravo Contractors and Americk Cleaning (failed to submit supporting documentation), and Bain Medina Bain (did not meet personal net worth (PNW) size standard). The denial letter dates were the same as the onsite visit dates. The Bain Medina Bain was the exception, with the onsite visit occurring on 8/30/2021 and the denial letter on October 26, 2021.

The Bain denial letter included failure to meet PNW size standard as the sole reason for denial. The Senior Certification Specialist calculated the cumulative total of all seven of the socially disadvantaged owners’ PNW amounts. The Senior Certification Specialist went on to deny the firm because they exceeded the \$1.32 million size standard, showing an aggregate total of \$2,434,473.67. The Senior Certification Specialist signed (cursive typed font) the denial letter and sent it to the firm on October 26, 2021.

The firm’s legal counsel sent a letter to the Executive Director on November 19, 2021 requesting a reconsideration of the Senior Certification Specialist’s interpretation of the regulation. The legal

counsel (correctly) stated that the personal net worth should be calculated on an individual and not at the aggregate level citing several areas in the DBE regulation to support their argument. Lastly, the legal counsel acknowledged their right to appeal to the USDOT but thought “a reconsideration of SCTRCA’s position would facilitate a more expeditious approach to resolve this matter for all parties concerned” and offered to discuss the matter further.

The firm eventually appealed to the USDOT who ruled in the case on April 8, 2022. The USDOT ruled that SCTRCA “misapplied” the rule by aggregating the net worth of all seven of the owners. The USDOT further noted “We reverse the denial under section 26.89(f)(2) as inconsistent with applicable certification provisions and direct SCTRCA promptly to determine whether the firm meets the other requirements for certification.”

There were several opportunities where adequate internal controls would have prevailed in this matter. The Director should have caught the egregious error in the denial letter prior to distribution to the applicant firm. The Director should have subsequently reconsidered SCTRCA’s denial position after receipt of the Bain Medina Bain legal counsel’s letter. Additionally, the Senior Certification Specialist was a four-and-a-half-year veteran and was the in-house DBE certification evaluator often training subordinate staff. This misapplication of the regulations showed gross negligence on interpreting foundational principles in the DBE certification program.

Finding

Material weakness

Recommendation

- 1) Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process.
- 2) Implement an Executive Director checklist verifying that the records are reviewed and approval of the certification determination prior to distribution to applicants.
- 3) Additional intensive certification training is also recommended for all SCTRCA staff.

§26.87 Removal of a DBE's eligibility

A) Removing Existing Certification (Decertification)

Basic Requirement (49 CFR §26.87)

If a UCP determines that there is reasonable cause to believe that the firm is ineligible, the UCP must provide written notice to the firm that the UCP proposes to find the firm ineligible, setting forth the reasons for the proposed determination. When the UCP notifies the firm that there is reasonable cause to remove its certification, the UCP must offer the firm an opportunity for an informal hearing or to submit additional information to rebut the UCP’s findings. In a proceeding to remove a firm’s certification under §26.87, the UCP must prove, by a preponderance of the evidence, that the firm no longer meets certification standards. Following the final decision, the UCP must provide written notice of the final decision and a rationale for that decision and reference specific evidence in the record to support each reason for the decision.

Discussion

The SCTRCA had approximately 54 removals (decertification) of DBE firms during the review period as per the SCTRCA database results. The regulations require the UCP to send a letter to the DBE firms proposing (Proposed Decertification Letter) to remove their certification and provide an opportunity for an informal hearing. Then the UCP must provide a written final notice of decision (Decertified Letter). There appeared to be discrepancies in the database entries for “Certification Action” and “Certified Status”. The “Certification Status” field showed all decertified while the “Certification Action” field showed either “Recert/Renewal/Annual” or “New.” The removal process is only to be used for existing DBEs and not new applicant firms.

Additional concerns include null fields for “Proposed Decertification Letter” and “Decertified Letter” to verify the correct removal process was completed by the SCTRCA. The only firm listed that seemed to have had a proposed decertification letter sent was Galloway Research Service. (see summary suspension below).

These decertified firms were also not listed in the USDOT Ineligibility Database, as previously mentioned.

Finding

Significant Deficiency

Recommendation

- 1) Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process.
- 2) Research the accuracy of “New” vs. “Recert/Renewal/Annual” for decertified firms in database and make appropriate revisions.

§26.88 Summary suspension of certification

A) Summary Suspension

Basic Requirement (49 CFR §26.88(a))

The UCP must immediately suspend a DBE’s certification without adhering to the requirements in §26.87(d) when an individual owner whose ownership and control of the firm are necessary to the firm’s certification dies or is incarcerated.

The UCP may immediately suspend a DBE’s certification without adhering to the requirements in §26.87(d) when there is adequate evidence to believe that there has been a material change in circumstances that may affect the eligibility of the DBE firm to remain certified, or when the DBE fails to notify the recipient or UCP in writing of any material change in circumstances that may affect the eligibility of the DBE firm to remain certified as required by §26.83(i) or fails to timely file an affidavit of no change under §26.83(j).

Discussion

A search in the SCTRCA database for DBE summary suspensions during the review period yielded one firm, Galloway Research Service. The SCTRCA sent a proposed decertification on 5/10/2021 and decertified the firm on 6/3/2021.

Finding

None
Recommendation
None

§26.89 Process for certification appeals to the Department of Transportation

A) Appeals to USDOT

Basic Requirement (49 CFR §26.89)

When DOCR receives an appeal and requests a copy of the administrative record, the UCP must provide the administrative record, including a hearing transcript, within 20 days of the request.

Discussion
Bain Medina Bain appealed to the USDOT in April 2022. The full administrative record was not available to the review team to determine if the USDOT requested the file for the 20-day delivery.
Finding
None
Recommendation
None

§26.91 Actions recipients must take following USDOT certification appeal decisions

A) Implementing USDOT Appeal Decisions

Basic Requirements (49 CFR §26.91)

A recipient to which a DOT determination under §26.89 is applicable, must take the following action:

- (1) If the Department determines that you erroneously certified a firm, you must remove the firm's eligibility on receipt of the determination, without further proceedings on your part. Effective on the date of your receipt of the Department's determination, the consequences of a removal of eligibility set forth in §26.87(i) take effect.
- (2) If the Department determines that you erroneously failed to find reasonable cause to remove the firm's eligibility, you must expeditiously commence a proceeding to determine whether the firm's eligibility should be removed, as provided in §26.87.
- (3) If the Department determines that you erroneously declined to certify or removed the eligibility of the firm, you must certify the firm, effective on the date of your receipt of the written notice of the Department's determination.
- (4) If the Department determines that you erroneously determined that the presumption of social and economic disadvantage either should or should not be deemed rebutted, you must take appropriate corrective action as determined by the Department.
- (5) If the Department affirms your determination, no further action is necessary.

Discussion
Bain Medina Bain appealed to the USDOT in April 2022. The USDOT reversed the denial but also included language for the SCTRCA to consider other eligibility areas such as ownership and control. As of the date of this report, Bain Medina Bain does not show in the TUCP directory as DBE certified.
Finding
None
Recommendation
None

§26.11 Records to keep and report

A) Record Retention

Basic requirement (§26.11 (c))

The UCP must maintain records documenting a firm's compliance with the DBE requirements. At a minimum, The UCP must keep a complete application package for each certified firm and all affidavits of no-change, change notices, and on-site reviews. These records must be retained in accordance with applicable record retention requirements for the recipient's financial assistance agreement. Other certification or compliance related records must be retained for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the recipient's financial assistance agreement, whichever is longer.

Discussion
The SCTRCA provided record retention procedures which appear to meet the minimum requirements of this provision. See Part 1 section regarding governing documents.
Finding
None
Recommendation
None

State Certification Procedure Compliance

Governing Jurisdiction

The Texas Comptroller of Public Accounts is responsible for administering the Historically Underutilized Business (HUB) Program for the State of Texas pursuant to Texas Government Code, Ch. 2161.

Applicable Information Reviewed

- Texas Comptroller of Public Accounts (HUB) MOA with SCTRCA
- SCTRCA B2G Database Records

Basic Provisions for M/WBE Organization:

- Charge no additional fees for HUB certification
- Notify CPA regarding any changes to M/WBE organization's certifications requirements that could affect the HUB program certifications, including, but not limited to, extending certification dates and discontinuing providing M/WBEs with said certifications
- Cooperate with CPA in the development of procedures to refer eligible businesses to CPA HUB. The program managers of the respective programs are hereby authorized to implement these procedures for businesses eligible for both the HUB and M/WBE programs
- Allow CPA the ability to audit and report any MOA HUB Certification records entered into the online HUB Certification system
- Allow CPA ability to audit its certification processes as necessary to determine compliance with HUB certification policies and procedures
- Identify qualified M/WBE Asian Indian Americans or Asian Subcontinents American business owners as HUB Asian Pacific Americans in the HUB Certification online system
- Complete the HUB Certification review process within 90 days of the completion of the M/WBE certification application process
- Update M/WBE organizations databases requiring corrected Vendor Identification (VID) numbers and address information on a case-by-case basis related to the HUB certification files
- Assist MOA vendors with certification documents to be printed within the certification system
- Provide notice to M/WBE organization's members and potential members of the opportunity to receive a free HUB Certification and listing in CPA's HUB Directory at no additional charge
- Participate in at least one annual event with CPA's HUB education and outreach efforts, such as forums, networking and other training events

Discussion
<p>The SCTRCA entered into a Memorandum of Agreement with the Texas Comptroller of Public Accounts in June 2022. The review team noted two provisions in the MOA that may need additional monitoring:</p> <ul style="list-style-type: none"> • Notify CPA regarding any changes to M/WBE organization’s certifications requirements that could affect the HUB program certifications, including, but not limited to, extending certification dates and discontinuing providing M/WBEs with said certifications • Identify qualified M/WBE Asian Indian Americans or Asian Subcontinents American business owners as HUB Asian Pacific Americans in the HUB Certification online system
Finding
None
Recommendation
<ul style="list-style-type: none"> • The Certification Committee is considering expanding certification offerings and extending certification dates. Notification to CPA will be required should the board approve any of the proposed actions. • More compliance oversight reviews may be needed with the HUB system and the SCTRCA system based on previous discrepancies with Ethnic field data entries.

Local Certification Procedure Compliance

Governing Jurisdiction

The SCTRCA Interlocal Agreement serves as the organizational charter for local certification services. The Business Enterprise Certification Program Policy & Procedure Manual is the guiding principles for administration of local certification programs.

Applicable Information Reviewed

- SCTRCA Business Enterprise Certification Program Policy & Procedures Manual
- SCTRCA B2G Database Records
- SCTRCA Inter-Local Agreement
- SCTRCA Amended By-Laws

SCTRCA Business Enterprise Certification Program Policy & Procedures Manual – 4.0 Certification Procedures

4.01 The Certification Process

Basic provisions

D) SCTRCA will certify the Applicant as an African American, Asian American, Disabled Individual, Hispanic American, Minority, Native American, Small Business, Veteran or Woman-owned business enterprise or provide the Applicant with written justification of its denial of certification within 60 days after the date SCTRCA receives a completed Application and supporting documentation from the Applicant.

Discussion
<p>The review team ran reports for local certifications during the review period. The system generated approximately 4,400 records due to firms possibly having 5 certifications records. The average number of processing days was 26 days which is under the prescribed 60-day determinations. The number days for denial was 85 days which was over the 60-day notification period.</p> <p>Additionally, a report was generated for all records based on ethnicity and gender. This report included over 12,000 records and had approximately 223 records with errors. This is an approximate 98% accuracy rate for the ethnicity/gender fields. However, some fields still need to be corrected. The review team was able to confirm that the certification types in these records were accurate. The system has multiple ethnic code entries which could increase the risk of data entry errors. It should also be noted that the vendor completes most of the data entries in the system.</p>
Finding
Significant Deficiency
Recommendation
<ol style="list-style-type: none">1) Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process.2) Implement periodic record compliance procedures to ensure data is correctly entered in the SCTRCA system.

4.02 Procedures for Certification Denials and Appeals

Basic Provisions

A) The SCTRCA shall send a Denial Letter by certified mail detailing the area(s) of concern regarding the Applicant's Application or Renewal Application

Discussion
Examining the same report in the previous section, there were missing entries for the "Denied Letter" field which indicates the letters either were not sent or not entered.
Finding
Significant Deficiency
Recommendation
<ol style="list-style-type: none">1) Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process.2) Implement periodic record compliance procedures to ensure data is correctly entered in the SCTRCA system.

4.03 Recertification

Basic Provisions

1. Renewal Application not submitted

a. SCTRCA staff shall send one Intent to Lapse letter by email, fax or mail after the 60 day renewal notice has expired informing the Applicant of the potential close of the Applicant's file.

b. Ten (10) business days after notifying the Applicant by email and/or letter of a potential close, the SCTRCA staff shall provide a reminder call to the Applicant within the same 10 business day period.

c. SCTRCA staff will close the file and remove the Applicant from the certified vendor database on the 16-day of the following month of which the certification has expired.

Discussion
A report was run for local recertifications during the review period. The report results showed approximately 24 records for local recertifications, but the "Renewal/Recertification Letter" field was null. This means the renewal notice was either not sent or not recorded in the database. The system does send out automatic reminders according to notes in the system. It was not clear how the reminders are tracked.
Finding
Advisory Comment
Recommendation
<ol style="list-style-type: none">1) Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process.2) Implement periodic record compliance procedures to ensure data is correctly entered in the SCTRCA system.

B. Recertification Closing Procedures

3. Previously Certified Vendor Request for Expedited Reinstatement

Basic Provisions

A previously certified Vendor may reduce the wait time after receiving a Close Letter from six (6) months by requesting Expedited Reinstatement. This requires the successful completion of a Renewal Application, eligibility for reinstatement and payment of the fees associated with expediting the Vendor's reinstatement.

Discussion
The review team had difficulty isolating a report that would generate a list of reinstatements because a "Reinstatement" field does not appear to exist in the system. This information is critical for monitoring and oversight purposes. As noted in Part 1 of this report, segregation of duties must be defined when collecting monies based on the persistence of the agency to send out the 60-day notification and the association with generating revenue.
Finding
Significant Deficiency
Recommendation
The board should outline some tracking parameters to ensure this course of generating revenue is not abused by the SCTRCA.

4.04 Revocation

Basic Provisions

SCTRCA shall revoke the certification of a business if it is determined that a business does not meet the definition of a African American, Asian American, Disabled Individual, Emerging Small, Hispanic American, Minority, Native American, Small Business, Veteran or Woman-owned business enterprise or that the business fails to provide information requested in connection with a Certification Review conducted by SCTRCA.

Discussion
A report was run for delisted local vendors. The system generated approximately 408 vendors meeting the criteria for the review period. The "Delisted Field" included a date but the "Delisted Letter" date was null. This means either the delisted letter was not sent or the data was not entered in the system.
Finding
Significant Deficiency
Recommendation
<ol style="list-style-type: none">1) Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process.2) Implement periodic record compliance procedures to ensure data is correctly entered in the SCTRCA system.

4.05 Certification Reviews

Basic Provisions

During Certification, the SCTRCA may conduct Certification Reviews as part of Certification to ensure the information received by a business is accurate, and the business owner meets all the eligibility requirements in order for the business to be certified as an African American, Asian American, Disabled Individual, Emerging Small, Hispanic American, Minority, Native American, Veteran or Woman-owned business enterprise.

Discussion
The SCTRCA system does not appear to have a mechanism to track certification reviews.
Finding
Advisory Comment
Recommendation
The SCTRCA should update fields in the database system to align with terms used in the Business Enterprise Certification Program for tracking and reporting purposes.

4.06 Site Visits

Basic Provisions

Certified Firms may be selected for random site visits by the SCTRCA. Firms are randomly selected by the Executive Director and the site visits may be conducted at any time. Prior notification is not required.

Discussion
The local program does not require onsite visits. Site visits are random according to the policy manual. The review team ran a report for the site visits field conducted on new local certifications during the review period. It appears the "Certification date" and the "Field Audit/Site Visit" dates are the same. This brings to question the validity of the information in the system concerning on-site visits.
Finding
Significant Deficiency
Recommendation
<ol style="list-style-type: none">1) Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process.2) Implement periodic record compliance procedures to ensure data is correctly entered in the SCTRCA system.

Part 3 Summary of Certification Files Reviewed

SCTRCA Federal Certification File Review

Eligibility Review Yes (Y) – Compliant No (N) – Concerns AC – Advisory Comment	Group membership	Business Size	Ownership	Control	NAICS	Onsite Visit	PNW	Tax Returns	Denial Letter	Intent to Remove Letter	Final Removal Letter	Annual Affidavit
New Initial Certification												
A K Fuquay Construction	Y	N	Y	N	Y	Y	Y	Y	NA	NA	NA	NA
Concerns: §26.65 Affiliation §26.71 Control Issues <ul style="list-style-type: none"> • Independence • Highest Officer • Family controlled • Absentee Ownership 	<p>A K Fuquay Construction is an erosion control firm that was established in 2017. The firm was initially WBE certified by SCTRCA on 10/14/2019 and applied for DBE certification on 10/23/2020. This is a family-owned business with five owners each having a 20% ownership interest in the DBE firm. Kathryn Fuquay and her two daughters (Allison and Amy Kaye Fuquay) are Caucasian females. Kathryn’s husband, John Fuquay and their son (John) are Caucasian males. The husband is the CEO of Fuquay, Inc., a construction firm established in 1985 with offices in Austin, New Braunfels and Dallas with over 200 employees. The family are owners in both companies and the two companies share office space. Both Amy and John Fuquay make many decisions in the management of the A K Fuquay Construction jointly according to the application. John Fuquay personally guaranteed the loans for two company vehicles for the DBE firm.</p> <p>The General Partnership Agreement was executed by all five of the owners in January 2018. The Management and Authority section of the agreement reads that “Each partner shall have an equal voice in the management of the Partnership and shall have authority to bind the Partnership in making contracts and incurring obligations in the name on the credit of the firm. However, no Partner shall incur any obligations in the name of or the credit of the firm without the express written consent of the other Partners.” Amy K Fuquay also sent a letter acknowledging her role does not require her to be on-site to perform her duties since she moved to Houston away from the Leander and New Braunfels locations. The onsite visit documentation notes the Amy and John all have authority in contract negotiations and making decisions during projects/for contracts. According to the resume of Amy Kaye Fuquay, she presently works at Deloitte Tax LLP and the DBE firm. Allison appears to be a college student and Kathryn has worked for Fuquay, Inc. since 1995 and is a Manager Certified Payroll, Accounts Payable, Employee Appreciation Coordinator at her husband’s company.</p>											

Concerns – This firm does not appear to meet eligibility criteria for DBE certification. The firm does not appear to be an independent firm, a socially disadvantaged owner does not have the highest officer position or control management in the firm, and affiliation with another firm exists which would impact business size evaluation. It does not appear the SCTRCA explored the affiliation issue. The firm is a family-owned business with shared responsibilities and does not meet the burden of distinguishing control by socially and economically disadvantaged owners. There is also the issue of absentee ownership by socially disadvantaged owners.

§26.65 What rules govern business size determinations?

(a) To be an eligible DBE, a firm (including its affiliates) must be an existing small business, as defined by Small Business Administration (SBA) standards.

§26.71 What rules govern determinations concerning control?

(b) Only an independent business may be certified as a DBE. An independent business is one the viability of which does not depend on its relationship with another firm or firms.

(1) In determining whether a potential DBE is an independent business, you must scrutinize relationships with non-DBE firms, in such areas as personnel, facilities, equipment, financial and/or bonding support, and other resources.

(2) You must consider whether present or recent employer/employee relationships between the disadvantaged owner(s) of the potential DBE and non-DBE firms or persons associated with non-DBE firms compromise the independence of the potential DBE firm.

(d) The socially and economically disadvantaged owners must possess the power to direct or cause the direction of the management and policies of the firm and to make day-to-day as well as long-term decisions on matters of management, policy, and operations.

(3) In a partnership, one or more disadvantaged owners must serve as general partners, with control over all partnership decisions.

(e) Individuals who are not socially and economically disadvantaged or immediate family members may be involved in a DBE firm as owners, managers, employees, stockholders, officers, and/or directors. Such individuals must not, however, possess or exercise the power to control the firm, or be disproportionately responsible for the operation of the firm.

(f) The socially and economically disadvantaged owners of the firm may delegate various areas of the management, policymaking, or daily operations of the firm to other participants in the firm, regardless of whether these participants are socially and economically disadvantaged individuals. Such

delegations of authority must be revocable, and the socially and economically disadvantaged owners must retain the power to hire and fire any person to whom such authority is delegated. The managerial role of the socially and economically disadvantaged owners in the firm's overall affairs must be such that the recipient can reasonably conclude that the socially and economically disadvantaged owners actually exercise control over the firm's operations, management, and policy.

(j) In order to be viewed as controlling a firm, a socially and economically disadvantaged owner cannot engage in outside employment or other business interests that conflict with the management of the firm or prevent the individual from devoting sufficient time and attention to the affairs of the firm to control its activities. For example, absentee ownership of a business and part-time work in a full-time firm are not viewed as constituting control. However, an individual could be viewed as controlling a part-time business that operates only on evenings and/or weekends, if the individual controls it all the time it is operating.

(k)(1) A socially and economically disadvantaged individual may control a firm even though one or more of the individual's immediate family members (who themselves are not socially and economically disadvantaged individuals) participate in the firm as a manager, employee, owner, or in another capacity. Except as otherwise provided in this paragraph, you must make a judgment about the control the socially and economically disadvantaged owner exercises vis-a-vis other persons involved in the business as you do in other situations, without regard to whether or not the other persons are immediate family members.

(2) If you cannot determine that the socially and economically disadvantaged owners—as distinct from the family as a whole—control the firm, then the socially and economically disadvantaged owners have failed to carry their burden of proof concerning control, even though they may participate significantly in the firm's activities.

Eligibility Review Yes (Y) – Compliant No (N) – Concerns AC – Advisory Comment	Group membership	Business Size	Ownership	Control	NAICS	Onsite Visit	PNW	Tax Returns	Denial Letter	Intent to Remove Letter	Final Removal Letter	Annual Affidavit
ACEE Construction	Y	Y	Y	AC	Y	Y	Y	Y	NA	NA	NA	NA
Advisory Comment: §26.71 Control	<p>The heavy highway construction firm was established 5/27/2021 and submitted an application for DBE certification on 9/20/2021. The majority owner is Alyxandra Hackebeil a Caucasian female with 60% ownership in the firm. Her husband, Elliott Hackebeil, is a Caucasian male with 40% ownership. The application stated that Mr. Hackebeil independently was responsible for bidding and estimating, supervising field operations, attending bid opening, hire and fire management staff and field crews, obligate business by contract/credit and purchase of equipment. Mrs. Hackebeil was solely responsible for marketing and office management. All other responsibilities were shared between the two owners.</p> <p>The onsite visit notes Mrs. Hackebeil is responsible for business development, phone calls, reports, invoices and accounting. Mr. Hackebeil is responsible for project management, project scheduling, estimating, and logistics.</p> <p>The resume of Mrs. Hackebeil indicated experience in operations for ranch management. She was previously responsible for financial records, bookkeeping and tax preparation for a cattle company. Mrs. Hackebeil has a BS degree in Agricultural Communications & Journalism. Mr. Hackebeil has Project Management experience on heavy highway projects and Estimator experience. He has a BS degree in Civil Engineering.</p> <p>The operating agreement outlines how the limited liability company is managed. The Operating Agreement noted the firm’s affairs are to be governed by the Managers. Mr. and Mrs. Hackebeil are the two managers. There was no designation of a controlling Manager therefore decisions are to be made jointly. The corporate titles used by the firm for President and Vice-President has no defined roles in the Operating Agreement. These designations are more commonly used corporations with management responsibilities prescribed in by-laws and articles of incorporation. Operating agreements can also include a section for officers appointed by the managers.</p>											

Advisory Comment – The firm’s structure creates an issue with defining control by the socially disadvantaged individual. This technicality is usually resolved with the firm modifying their operating agreement to designate a controlling manager or managing member. Since there are some other questionable control issues with the socially disadvantaged individual and the non-disadvantaged individual, modifying the agreement may not solve the noted control requirements listed below.

§26.71 What rules govern determinations concerning control?

(f) The socially and economically disadvantaged owners of the firm may delegate various areas of the management, policymaking, or daily operations of the firm to other participants in the firm, regardless of whether these participants are socially and economically disadvantaged individuals. Such delegations of authority must be revocable, and the socially and economically disadvantaged owners must retain the power to hire and fire any person to whom such authority is delegated. The managerial role of the socially and economically disadvantaged owners in the firm's overall affairs must be such that the recipient can reasonably conclude that the socially and economically disadvantaged owners actually exercise control over the firm's operations, management, and policy.

(g) The socially and economically disadvantaged owners must have an overall understanding of, and managerial and technical competence and experience directly related to, the type of business in which the firm is engaged and the firm's operations. The socially and economically disadvantaged owners are not required to have experience or expertise in every critical area of the firm's operations, or to have greater experience or expertise in a given field than managers or key employees. The socially and economically disadvantaged owners must have the ability to intelligently and critically evaluate information presented by other participants in the firm's activities and to use this information to make independent decisions concerning the firm's daily operations, management, and policymaking. Generally, expertise limited to office management, administration, or bookkeeping functions unrelated to the principal business activities of the firm is insufficient to demonstrate control.

Eligibility Review Yes (Y) – Compliant No (N) – Concerns AC – Advisory Comment	Group membership	Business Size	Ownership	Control	NAICS	Onsite Visit	PNW	Tax Returns	Denial Letter	Intent to Remove Letter	Final Removal Letter	Annual Affidavit
Denial of Certification												
Bain Medina Bain	Y	Y	AC	N	Y	Y	Y	Y	N	NA	NA	NA
Advisory Comment: §26.69 Ownership Concerns: §26.107 False statements §26.71 Control	<p>Bain Medina Bain has been a certified S/WBE with SCTRCA dating back to 2000. The firm was denied DBE status in 2008 due to exceeding the Personal Net Worth requirements. The firm retained S/WBE status. The firm had ownership changes on 1/1/2021 and started a new DBE application request in the system on 2/19/2021. The application was tagged as submitted on 6/21/2021. As noted in this audit report, the firm was denied DBE certification on October 26, 2021. The firm appealed to the USDOT and the failure to meet PNW requirements denial decision was reversed. The USDOT directed the SCTRCA to promptly determine whether the firm meets the other requirements for certification. The SCTRCA conducted another review and certified the firm as a DBE on 11/30/2022.</p> <p>Several eligibility concerns were noted during the file audit review. The applicant answered in Section 1:1.B.11 that the firm had never been denied certification or decertified as a DBE, ACDBE, etc. The firm was denied on 4/29/2008 as per the denial letter to Pamela Bain.</p> <p><i>Concern: The applicant was not truthful and/or omitted information</i></p> <p>§26.107 What enforcement actions apply to firms participating in the DBE program?</p> <p>a) If you are a firm that does not meet the eligibility criteria of subpart D of this part and that attempts to participate in a DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.</p> <p>The application showed Henry Carl Bain III acquired 28% ownership on 1/1/2021 from his father Henry Carl Baine Jr. as part of an inheritance upon the father's retirement. Mr. Bain III had ownership in the firm for 35 years. There are seven other minority/female owners that collectively make up the remaining 72% ownership. The seven new owners acquired their ownership from the retired Pamela Bain and Raymond Medina.</p>											

Advisory Comment – Even though the timing for DBE certification aligns with the transfer of ownership, this transfer could be considered part of succession planning. We recommend SCTRCA document reasons why the firm met/or did not meet this standard.

§26.69 What rules govern determinations of ownership –

(h)(1) You must presume as not being held by a socially and economically disadvantaged individual, for purposes of determining ownership, all interests in a business or other assets obtained by the individual as the result of a gift, or transfer without adequate consideration, from any non-disadvantaged individual. (2) To overcome this presumption and permit the interests or assets to be counted, the disadvantaged individual must demonstrate to you, by clear and convincing evidence, that—

(i) The gift or transfer to the disadvantaged individual was made for reasons other than obtaining certification as a DBE; and

(ii) The disadvantaged individual actually controls the management, policy, and operations of the firm, notwithstanding the continuing participation of a non-disadvantaged individual who provided the gift or transfer.

Mr. Bain III is listed as president and the other owners hold Vice President titles or are listed as shareholders.

Concern – It does not appear the firm has met the test of the disadvantage individual holding the highest officer position in the company, since Mr. Bain III is a non-disadvantage individual as the president.

§26.71 What rules govern determinations concerning control?

(d) The socially and economically disadvantaged owners must possess the power to direct or cause the direction of the management and policies of the firm and to make day-to-day as well as long-term decisions on matters of management, policy and operations.

(1) A disadvantaged owner must hold the highest officer position in the company (e.g., chief executive officer or president).

Eligibility Review Yes (Y) – Compliant No (N) – Concerns AC – Advisory Comment	Group membership	Business Size	Ownership	Control	NAICS	Onsite Visit	PNW	Tax Returns	Denial Letter	Intent to Remove Letter	Final Removal Letter	Annual Affidavit
Denial of Certification												
TOBIN Engineers	Y	Y	Y	Y	Y	Y	Y	Y	Y	NA	NA	NA
	Applicant applied under Appendix E to part 26 – Individual Determinations of social and economic disadvantaged. The audit review concurs with the denial.											
Eligibility Review Yes (Y) – Compliant No (N) – Concerns AC – Advisory Comment	Group membership	Business Size	Ownership	Control	NAICS	Onsite Visit	PNW	Tax Returns	Denial Letter	Intent to Remove Letter	Final Removal Letter	Annual Affidavit
Annual Update Certification												
3 rd Rock Electrical Contractors	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	Y
	The firm was initially certified 10/1/2019. The firm submitted annual updates on 9/3/2020, 9/26/2021, and 9/20/2022. The audit review included only annual update compliance since the initial certification was outside the scope of the review period. Additionally, historical data from the initial 2019 application was not uploaded in the system.											
Luke Eleven Ventures, Inc.	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	N
Concerns: §26.83 Annual Updates	<p>The firm was initially certified 7/24/2007. There is a gap from 2013 to 2021 for annual affidavits collection. The 2022 DBE annual affidavit was submitted 3/16/2022 and approved on 3/17/2022. <i>Concern – The DBE Annual Affidavits were not collected annually for continued participation.</i></p> <p>§26.83 What procedures do recipients follow in making certification decisions? (j) If you are a DBE, you must provide to the recipient, every year on the anniversary of the date of your certification, an affidavit sworn to by the firm's owners before a person who is authorized by State law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States.</p>											

Eligibility Review Yes (Y) – Compliant No (N) – Concerns AC – Advisory Comment	Group membership	Business Size	Ownership	Control	NAICS	Onsite Visit	PNW	Tax Returns	Denial Letter	Intent to Remove Letter	Final Removal Letter	Annual Affidavit
Removal of Certification												
Galloway Research Service, Inc.	NA	NA	NA	NA	NA	NA	NA	NA	NA	N	N	Y
Concerns: §26.87 Removal of Certification	<p>The firm has been certified with SCTRCA since 2001. The firm submitted an annual affidavit on 9/9/2020 that changes in ownership had occurred. The firm stated that as of 1/1/2020 Elisa and J Partick Galloway no longer own Galloway Research Service. David and Veronica “Crystal” Galloway are the current owners. The certification timeline in the system shows the date of proposed decertification as 5/10/2021 and date of decertification as 6/3/2021. The “Notices/Letter Sent” was blank in the field to verify content in the SCTRCA removal letters.</p> <p><i>Concerns – The SCTRCA must upload external workpapers and other correspondence in the data system. No intent to remove and final removal letters were in the system.</i></p> <p>§26.87 What procedures does a recipient use to remove a DBE's eligibility?</p> <p>(b) <i>Recipient-initiated proceedings.</i> If, based on notification by the firm of a change in its circumstances or other information that comes to your attention, you determine that there is reasonable cause to believe that a currently certified firm is ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination.</p> <p>(g) <i>Notice of decision.</i> Following your decision, you must provide the firm written notice of the decision and the reasons for it, including specific references to the evidence in the record that supports each reason for the decision.</p>											
Jarvis Moore Incorporated	NA	NA	NA	NA	NA	NA	NA	NA	NA	AC	Y	Y
Advisory Comment: §26.87 Removal of Certification	<p>The firm has been certified with SCTRCA since 2013. The firm submitted an Annual Affidavit on 2/8/2022. The firm was “Decertified” on 5/16/2022 according to the data system. The SCTRCA data system included a “Decertification of DBE Eligibility” sent on 5/16/2022. The letter referenced a previously sent intent to remove letter with a response deadline on 2/3/2022. The Decertification letter included the correct language and appeal information.</p>											

	<i>Advisory Comment – The SCTRCA must upload external workpapers and other correspondence in the data system. The intent letter was not found in the system. Since the Decertification letter referenced a previously sent intent to remove letter, the review audit considers this step was completed.</i>											
Eligibility Review Yes (Y) – Compliant No (N) – Concerns AC – Advisory Comment	Group membership	Business Size	Ownership	Control	NAICS	Onsite Visit	PNW	Tax Returns	Denial Letter	Intent to Remove Letter	Final Removal Letter	Annual Affidavit
Interstate Certification												
Complete Contract Consulting, LLC	Y	Y	Y	Y	Y	Y	Y	Y	NA	NA	NA	NA
	The out of state firm submitted an interstate application to the SCTRCA on 11/16/2021. The certification was completed on 11/29/2021. The audit team reviewed documentation and no issues were found.											
Villa13, LLC	Y	Y	Y	Y	Y	Y	Y	Y	NA	NA	NA	NA
	The out of state firm submitted an interstate application to the SCTRCA on 11/11/2020. The certification was completed on 12/3/2020. The audit team reviewed documentation and no issue were found.											

SCTRCA Local Certification File Review

Local Certification Program Eligibility

A firm must be independent and for-profit owned by a majority of U.S. Citizens or permanent residents. All participants must submit document(s) to prove they fall into one of these categories.

African American Business Enterprise (AABE) Certification

A business structure owned, operated, managed, and controlled by an African American minority group member(s) who has at least 51% ownership. African American: Persons having origins in any of the black racial groups of Africa.

Asian American Business Enterprise (ABE) Certification

A business structure owned, operated, managed and controlled by an Asian American minority group member(s) who has at least 51% ownership. Asian-Pacific American: Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands. Asian-Indian American: Persons whose origins are from India, Pakistan, Bangladesh, Sri Lanka, Maldives Islands, Bhutan, or Nepal.

Disabled Individual Business Enterprise (DIBE) Certification

A business structure that is at least 51% owned, operated and controlled by a Disabled individual Disabled individual means a person (a) with one or more disabilities as defined by the Americans with Disabilities Act (ADA) and amendments thereto (for purposes of applicability under the certification statutes, ordinances, rules, and regulations governing the State of Texas).

Emerging Small Business Enterprise (ESBE) Certification

An SBE eligible business structure for the purpose of making a profit, which is independently owned and operated by individuals legally residing in, or that are citizens of, the United States or its territories, whose annual revenues and number of employees are no greater than 25% of the small business size standards for its industry as established by the U.S. Small Business Administration.

Hispanic American Business Enterprise (HABE) Certification

A business structure owned, operated, managed, and controlled by a Hispanic American minority group member(s) who has at least 51% ownership. Hispanic American: Persons of Mexican, Puerto Rican, Cuban, Spanish or Central or South American origin.

Minority Business Enterprise (MBE) Certification

A business structure that is owned, operated, managed and controlled by an ethnic minority group member(s) who has at

least 51%.

Native American Business Enterprise (NABE) Certification

(1) A business structure owned, operated, managed and controlled by a Native American minority group member(s) who has at least 51 percent ownership. The Native American group member(s) must have operational and managerial control, interest in capital, expertise, and earnings commensurate with the percentage of ownership and legally residing in or are citizens of the United States or its territories; or (2) A business structure owned, operated, and controlled by a Native American minority group member(s) who has at least 51% ownership and satisfies the Native American member status. Native American: Persons having no less than 1/16 percentage origin in any of the American Indian Tribes, as recognized by the United States Department of the Interior, Bureau of Indian Affairs and as demonstrated by possession of personal tribal role documents, to include persons who are Eskimos, Aleuts, or Native Hawaiians, for all SCTRCA purposes.

Small Business Enterprise (SBE) Certification

A business structure that is formed with the purpose of making a profit, which is independently owned and operated and which meets the United States Small Business Administration (SBA) size standard for a small business.

Veteran-Owned Business Enterprise (VBE) Certification

A business structure that is at least 51% owned, operated and controlled by an individual who served in the United States Armed Forces, and who was discharged or released under conditions other than dishonorable. Please note: This certification type should not be confused with the Service-Disabled Veteran designation available through the Small Business Administration.

Woman-Owned Business Enterprise (WBE) Certification

A business structure that is owned, operated, and controlled by one or more women who have a total of at least 51% or more ownership.

Eligibility Review Yes (Y) – Compliant No (N) – Concerns AC – Advisory Comment	Group membership	Size	Ownership	Independence	Management	Authority Control	Expertise Licensing	Other
African American Business Enterprise								
The Wright way Construction Group	Y	Y	Y	AC	Y	Y	AC	NA
Advisory Comment: Independence – 3.05 SCTRCA Policy Expertise – 3.08 SCTRCA Policy	<p>The Wright way Construction Group was established on 12/18/2020 and applied for AABE local certification on 1/11/2021. The SCTRCA certified the firm on 2/9/2021. The firm submitted their first annual meeting minutes from 12/17/2020 which included the qualifying AA owner (Deanthony Wright), Justin Flores, Jairo Fenandez and Jessie Lang. The applicant provided two AIA subcontract agreements between the qualifying AA owner and Jessie Lang (owner Stellar Constructors). One agreement was for the Carver Theater on 12/1/2020 and the other 11/10/2020 for Hemisfair Fencing. Mr. Lang was included in the organizational minutes and had a previous contractual relationship with the applicant firm. The qualifying applicant’s resume shows no previous construction experience. Jessie Lang was not listed in the application for certification. Stellar Constructors is also SCTRCA certified as an African American Business Enterprise and MBE/DBE.</p> <p><i>Advisory Comment – Additional documentation/follow-up is suggested to vet the independence requirements based on the relationship with Jessie Lang.</i></p>							
3Fold Productions	Y	Y	Y	Y	Y	Y	Y	NA
	<p>The firm submitted an application for AABE designation on 9/28/2021. The firm is owned by three African American males. Richard Dancer 34%, Roderick Henderson 33%, and Robert Jordan 33%. The company provides marketing and advertising consulting services. No issues were found.</p>							

Eligibility Review Yes (Y) – Compliant No (N) – Concerns AC – Advisory Comment	Group membership	Size	Ownership	Independence	Management	Authority Control	Expertise Licensing	Other
Asian American Business Enterprise								
Alpha Consulting Engineers, Inc.	Y	Y	Y	Y	Y	Y	Y	NA
	Alpha Consulting started in 1990. The firm has been certified with SCTRCA since 2002. The firm was formerly majority owned by Scott Tak, an Asian Pacific male. The structural engineering firm submitted a new ABE application on 6/22/2021. Daniel Tak is the firm's current President as of 1/1/2021 owning 38.5% interest in the firm. The firm has 10 owners with 68.41% in collective diversity ownership. Daniel Tak has a degree in Structural Engineering but is not a registered Professional Engineer. The other minority owners have P.E. designations. No issues were found.							
Maruti Mobility Management, Inc.	Y	Y	Y	Y	Y	Y	Y	NA
	The Orlando Florida firm submitted an application on 8/4/2021 for ABE certification. The firm provides para-transit and shuttle services. The firm is owned by Nita Parikh (55%), Parth Parikh (25%) and Yash Parikh (20%) all Asian Indian females. The firm is DBE certified by various out-of-state organizations. Ms. Parikh has been in the transportation logistics industry since 1987. No issues were found.							

Eligibility Review Yes (Y) – Compliant No (N) – Concerns AC – Advisory Comment	Group membership	Size	Ownership	Independence	Management	Authority Control	Expertise Licensing	Other
Disabled Individual Business Enterprise								
Project Vanguard, LLC	Y	Y	Y	Y	Y	Y	Y	NA
	<p>The firm submitted a local certification application on 6/14/2021 for DIBE designation. The firm was originally DIBE certified in 2014. The firm provides exam prep training and was established in 2012. Sean Thomas is a Caucasian male owning 100% interest in the firm. The firm has one employee. Mr. Thomas submitted a Veterans Administration Rating Letter for 100% disability for service-connected disabilities. No issues were found.</p>							
Dual Origin, LLC	Y	Y	Y	Y	Y	Y	Y	NA
	<p>Bradley Smelley started Dual Origin on 1/7/2021 and applied for DIBE certification on 2/10/2021. Mr. Smelley is a Caucasian male owning 51% ownership in the cybersecurity company. Salvatore Forlenza, a Caucasian male owns 49% interest in the firm. Mr. Smelley submitted a VA disability rating for 100% service-connected disabilities. Mr. Smelley has the technical competence to control an IT company. No issues were found.</p>							

Eligibility Review Yes (Y) – Compliant No (N) – Concerns AC – Advisory Comment	Group membership	Size	Ownership	Independence	Management	Authority Control	Expertise Licensing	Other
Emerging Small Business Enterprise								
1 st World Wellness, LLC	Y	Y	Y	Y	Y	Y	Y	NA
	<p>The firm submitted an SBE/WBE certification request on 10/16/2020. The firm was also ESBE certified upon eligibility review. The firm is a distributor of specialized sanitizers. The NAICS title is General merchandise, merchant wholesalers. The revenue was well below the 25% threshold for the NAICS code. No issues found.</p>							
Sousa International, LLC	N	N	N	N	N	N	N	N
Concern: No supporting documents in system	<p>The firm submitted a local certification application on 6/4/2021. The firm is 51% owned by Rosa Clara Sousa. The firm was certified on 6/9/2021. The certification letter shows the NAICS title is Management Consulting Services.</p> <p>Concern – There were no file records i.e. application, tax returns or any correspondence in the system for this firm.</p>							

Eligibility Review Yes (Y) – Compliant No (N) – Concerns AC – Advisory Comment	Group membership	Size	Ownership	Independence	Management	Authority Control	Expertise Licensing	Other
Hispanic American Business Enterprise								
Flores Group	Y	Y	Y	Y	Y	Y	Y	NA
	<p>The firm submitted a local certification application on 9/15/2020. The construction sole proprietorship was started by a Hispanic individual, Justin Flores, on 1/1/2019. Mr. Flores is 100% owner and has construction experience. No issues were found.</p>							
Jag Graphics	Y	Y	Y	N	Y	Y	Y	NA
Concerns: Independence 3.05 SCTRCA Policy	<p>The firm submitted a local certification application on 3/29/2021. The firm was established 2/24/2021 by 100% owner Linda Marie Gonzalez, a Hispanic female. The firm provides graphic design services. The application noted the firm had 25 full-time, 10 part-time, and 10 contract personnel.</p> <p><i>Concern – Additional document review or onsite visit should have been conducted prior to approval. The firm had only been in business one month prior to submitting the application and amassed 45 employees in a short period of time. The invoices submitted with the package were nominal in comparison to the number of staff. This could be an indication of another firm’s participation. Ms. Gonzalez did have another Boutique firm based on tax returns in the file but those were nominal revenue earnings.</i></p>							

Eligibility Review Yes (Y) – Compliant No (N) – Concerns AC – Advisory Comment	Group membership	Size	Ownership	Independence	Management	Authority Control	Expertise Licensing	Other
Minority Business Enterprise								
La Maestra Consulting	Y	Y	Y	Y	Y	Y	Y	NA
	The firm submitted an application for local certification on 3/17/2022. The firm was established on 6/1/2019 by Irene Chavez Galvan, President and 100% owner. The firm provides small business support services. Ms. Galvan works full time as Director of Development and Communications at the Madonna Center. The full-time work does not appear to interfere with her devotion to the consulting firm. No issues were found.							
South Texas Integrity, LLC	Y	Y	Y	Y	Y	Y	Y	NA
	The firm submitted an application for local certification on 3/15/2022. The firm was established on 10/22/2019 by a Hispanic male, Stephen Guajardo, who is President and 100% owner of the construction project management company. The firm has one employee. No issues were found.							
Native American Business Enterprise								
Native American Contracting, LLC	Y	Y	Y	Y	Y	Y	Y	NA
	The firm submitted a local certification application on 9/2/2020. The firm was established between 2004 and 2006 and Stanley Boyle is the President and 51% owner. Stan Boyle is Vice President and 49% owner. Both identified as Native American. The firm provides prefabricated metal buildings. Both owners submitted tribal cards to support group membership. No issues were found.							
Studio Contractors, LLC	Y	Y	Y	Y	Y	Y	Y	NA
	The firm submitted a local certification application on 1/27/2021. The firm was established on 5/1/2019 by Gary Sanchez, President and 100% owner. The firm provides general contracting							

	services. Mr. Sanchez identified as Hispanic and Native Hawaiian. Mr. Sanchez provided an OHA Hawaiian Registry card as a descendant of the aboriginal peoples in habiting the Hawaiian Islands. No issues were found.							
Eligibility Review Yes (Y) – Compliant No (N) – Concerns AC – Advisory Comment	Group membership	Size	Ownership	Independence	Management	Authority Control	Expertise Licensing	Other
Small Business Enterprise								
Integrity Solar Solutions, LLC	Y	Y	Y	Y	Y	Y	Y	NA
	The firm was started on 9/16/2020 and submitted a local certification for SBE along with DIBE and VBE on 3/18/2021. The firm met small business size standards. No issues were found.							
Perilous Times Restorations	Y	Y	Y	Y	Y	Y	Y	NA
	The firm was established in 2017 and submitted a local certification application on 8/24/2021 for ESBE and SBE designations. The company provides fire restoration services. The company revenues were within the SBA size threshold. No issues were found.							
Veteran-Owned Business Enterprise								
1 st in 1 st Out Logistics, LLC	Y	Y	Y	Y	Y	Y	Y	NA
	The firm applied for local certification on 1/29/2021. The firm provides courier service and is 100% owned by Ethan Jones. Mr. Jones provided his DD214 and VA records. No issues were found.							
Patriot Gear, LLC	Y	Y	Y	Y	Y	Y	Y	NA
	The firm submitted a local application on 1/5/2022. Mr. Robert Kirkman is the President and 90% owner. Mr. Kirkman provided his VA disability verification and the DD214 records. No issues were found.							

Eligibility Review Yes (Y) – Compliant No (N) – Concerns AC – Advisory Comment	Group membership	Size	Ownership	Independence	Management	Authority Control	Expertise Licensing	Other
Woman-owned Business Enterprise								
Synergy Builders Consulting, LLC	Y	Y	Y	Y	Y	Y	Y	NA
	The firm applied for local certification application on 5/12/2021. The 100% owner is Carol Warkoczewski, a Caucasian female, started the company on 12/31/2020. The firm provides strategic planning services. The firm has two employees. No other individuals have management responsibility in the firm. No issues were found.							
JWILL Real Estate	Y	Y	Y	Y	Y	Y	Y	NA
	The firm submitted a local certification application on 3/22/2022. The firm was established on 1/21/2022 by Tabitha Williams, a Black female, and 100% owner. Ms. Williams is solely involved in the business and has no other management personnel. No issues were found.							

South Central Texas Regional Certification Agency's Management Response to the Certification Audit Report – Revised December 2022

The South Central Texas Regional Certification Agency (SCTRCA) respectfully submits its response and action plan to the SCTRCA Certification Audit conducted by CSI Compliance. On the subsequent pages the SCTRCA Board of Directors (SCTRCA Board or Board) responds to each Opinion and Finding, presented in the Certification Audit Report of the SCTRCA – Revised December 2022 (Certification Audit Report or Report). Within the response, it is noted if the SCTRCA agrees or disagrees with the findings. The SCTRCA Board has formalized a preliminary action plan to address the Certification Audit findings working with its recently hired SCTRCA Executive Director, who brings to the SCTRCA DBE/ACDBE certification experience. The SCTRCA Board subcommittees will focus on the governing documents and policies and procedures while the new Executive Director will focus on the operations to ensure the SCTRCA operates in accordance with the best organizational practices and standard certification administration industry practices.

The SCTRCA acknowledges that the scope of work was to examine internal controls and compliance and to provide an opinion on the entity's level of compliance and efficacy of the policies and practices in its certification process. However, the audit does not provide a legal determination of the SCTRCA's compliance.

The SCTRCA Board of Directors would like to thank CSI Compliance for the effort in completing the Certification Audit.

If there are further questions regarding the audit results or response please send questions to Sandra Ramos, Executive Director of the SCTRCA at sramos@sctrca.org

Background & Timeline

August 2, 2022: SCTRCA Board approved the released of an Request for Proposal (RFP) to hire a consultant to provide a certification audit titled “Request for Proposal (RFP 2022-00101) Certification Audit Services.” An Ad-Hoc Certification Audit Committee (comprised of representatives from Bexar County, CPS Energy, VIA Transit, Port San Antonio and the City of San Antonio Airport) was convened with Bexar County representative as the Chair to review the RFP responses and recommend a consultant to the Board.

October 14, 2022: SCTRCA Board approved a contract with CSI Compliance to conduct the certification audit per the specifications in the approved RFP.

November 21, 2022: The Ad-Hoc Certification Audit Committee and previous Chair were sent a draft copy of the Certification Audit Report of the SCTRCA dated November 21, 2022, from Mr. Benjamin Sumpter of CSI Compliance.

December 8, 2022: Per the contract, a copy of the draft report was to be sent to all Board members to seek feedback/comments.

The Certification Audit Report of SCTRCA – Revised December 2022 was circulated to the Board.

December 12, 2022: Mr. Sumpter provided a briefing of the draft report to the Board. During that meeting, after having received the report on December 8, 2022, several Board members requested more time to review the report, ask more questions and provide feedback. Several Board members also expressed an interest in creating a management response before accepting the Certification Audit Report, which is customary in an audit process.

The Ad-Hoc Certification Audit Committee was charged to hold a meeting with all committee chairs and the new Executive Director to develop a Management Response and Action Plan. The Management Response and Action Plan were to be presented to the Board at the January 23, 2023, meeting.

January 13, 2023: The Ad-Hoc Certification Audit Committee was scheduled to meet to discuss the Certification Audit Report provided by CSI Compliance prior to the next regular Board meeting. This meeting was cancelled by the previous Board Chair.

January 23, 2023: The SCTRCA Board met to discuss the audit findings, address concerns, and gather feedback in order to draft a Board response, in the form of a Management Response and Action Plan to address the issues identified. The Board members provided their feedback on the Certification Audit Report of SCTRCA – Revised December 2022 and asked Ad-Hoc Certification Audit Committee Chair questions regarding (1) the process of selecting interviewees, (2) providing personnel information, and (3) adding to the Board approved scope of CSI Compliance’s work.

The previous Board Chair shared, by reading out loud, a list of concerns collected from various Board members. Since the process of reviewing the Certification Audit Report was not as Board members expected and responses were not to the satisfaction of many Board members, a motion was presented, seconded and carried not to accept the Certification Audit Report as presented with the intention to add a Management Response and Action Plan to record these findings, the action plan and the Board's feedback along with that of the Executive Director. The motion carried by the majority vote of the SCTRCA Board of Directors.

February 27, 2023: The SCTRCA Board met on February 27, 2023, to discuss the audit findings, address concerns, and gather feedback in order to draft the Board's response with an action plan to address the issues identified. This agenda item was pulled by the Chair stating that she had not completed the Management Response for the Board to review and advising the Board that the item would be placed on the March SCTRCA Board Meeting Agenda.

March 27, 2023: The Board met to discuss the draft Management Response and Action Plan. The Board voted to approve the response and action plan by unanimous vote.

Management Response to Certification Audit Findings

Opinion #1: Board member expectations should be clearly defined.

Auditor's Recommendation: Develop/revise a centralized Board Policy Manual to include, but not limited to, board ethics, codes of conduct, conflicts of interest and training requirements. Revise by-laws as needed to eliminate any direct or perceived conflicts of interest. Develop a formal vendor complaint process to Certification Committee/Board for tracking agency performance.

Management's Response: Management agrees with the Auditor that the governing documents, policies and procedures need to be reviewed and, where appropriate, updated. The Board understands that as with all organizations, these documents should be reviewed and revised on a cyclical basis to ensure they remain appropriate and applicable. The SCTRCA made period reviews and revisions to these documents over the years and could be better at the frequency of its reviews for updating. The Policies & Procedures/Personnel Committee had begun a review process of these documents before the Certification Audit started.

Management also agrees with the Auditor's recommendation that the SCTRCA develop a formal vendor complaint process to Certification Appeals Committee and/or the Board for tracking agency performance.

Action Steps: The SCTRCA governing documents, policies, and procedures will be reviewed for any needed and desired updates as part of the Policy & Procedures/Personnel

Committee's review process, working with the appropriate Board Committees to propose revisions to such documents to come to the full Board for consideration by July 31, 2024. The Certification Appeals Committee shall develop a formal vendor complaint process that will enable vendors to bring a complaint to the Certification Committee and/or full Board for tracking agency performance for Board consideration and approval by August 1, 2023.

Opinion #2: The record retention policy adopted in 6/2010 is outdated.

Auditor's Recommendations: Board committee should review the record retention policy and make updates as needed to reflect the SCTRCA's current certification process.

Management's Response: Management agrees with the Auditor that the Record Retention Policy needs to be reviewed and updated to reflect current practices and/or any appropriate changes in practices or process as determined by the Board. Please note the most recent Records Retention is dated February 1, 2011.

Action Steps: The SCTRCA will review the Record Retention Policy for any needed updates as part of the Policies & Procedures/Personnel Committee's review process with proposed revisions to come to the full Board for consideration and approval by January 31, 2024.

Opinion #3: Board administration considerations and determinations directly impacting business certifications appear to be made by committee members who have not completed certification training.

Auditor's Recommendations: The Certification Appeals Committee members, along with other committee members making certification related decisions, should participate in similar training completed by staff . in order to make knowledgeable decisions pertaining to business certifications conducted by the SCTRCA.

Management's Response: Management agrees with the auditor that the Certification Guidelines Committee should partake in training similar to the staff.

Action Steps: All Board Members serving on the Certification Guidelines Committee will be required to show proof of training by March 30, 2023, and will be kept on file for future audits.

Opinion #4: Segregation of duties are needed in collection and reconciliation of vendor payments.

Auditor's Recommendations: Develop/revise policies to include, but not limited to, cash management policies and procedures, delegation of authority, access, and segregation of duties functions. Clearly outline internal systems of financial checks and balances and alignment with business certification related income producing activities. Fraud, waste,

and abuse policies should also be explored or as recommended by a financial professional. Incorporate separation of functions for vendor collection and reconciliation to board treasurer or other non-staff personnel.

Management's Response: Management agrees with the Auditor that reviewing and establishing new and/or different financial policies and controls, to include a segregation of certain duties, will move the SCTRCA toward better business practices. The Finance Committee, working with the Policies & Procedures/Personnel Committee, has been tasked to review and update the financial practices, policies and procedures. Additionally, prior to the audit review taking place, changes were being made internally and the new Treasurer has increased the information delivered to the SCTRCA Board by presenting revised reports on a monthly basis. Further, the SCTRCA regularly engages in financial audits, to review and ensure appropriate management of SCTRCA funds.

On March 23, 2023, the SCTRCA Board voted unanimously to eliminate the vendor option to pay \$100 in order to renew a local lapsed certification.

Action Steps: The SCTRCA will review and establish new and/or different financial policies and controls, to include a segregation of certain duties, for any needed updates as part of the Policies & Procedures/Personnel Committee's review process with proposed recommendations and revisions, incorporating recommendations from the Financial Audit, which is scheduled to be completed in April of 2023, to come to the full Board for consideration and approval by July 31, 2023.

Opinion #5: The SCTRCA has ambiguous procurement and contracting procedures.

Auditor's Recommendations: Draft/revise SCTRCA procurement and contracting procedures for the SCTRCA in accordance with directives in Interlocal Agreement. The board may use templates from member organizations to create a right-sized procurement policy for the agency.

Management's Response: The SCTRCA does have a Procurement Policy. Management agrees with the Auditor that SCTRCA should review and update its Procurement Policy, which was last revise in March of 2011. Upon receipt, review and acceptance of the report resulting from the Financial Audit the Finance Committee, led by the Treasurer, is tasked to update the existing and recommend any new financial policies and procedures.

Action Steps: The SCTRCA will review and establish new and/or different financial policies and controls for any needed updates as part of the Policies & Procedures/Personnel Committee's review process with proposed recommendations and revisions, incorporating recommendations from the Financial Audit, which is scheduled to be completed in April of 2023, to come to the full Board for consideration and approval by June 30, 2023.

Opinion #6: Improvements are needed to recruit, retain, train and develop the most experienced staff feasible.

Auditor's Recommendations: Use recruitment features on job boards, update job descriptions, address the void in staff experience with DBE certification processing, reevaluate staff salaries and take advantage of more frequent staff certification training opportunities.

Management's Response: Management agrees with the Auditor that the SCTRCA should recruit, retain, train, and develop the most experienced staff feasible. SCTRCA strives to provide fair compensation in line with market value of comparable industry positions. A Staff Training Plan has been developed by the new Executive Director for staff to include continuous training in certification and professional development. The new Executive Director is a DBE/ACDBE expert and has received training from the Texas State HUB Office to administer said certification.

Action Steps: Executive Director will ensure all staff adhere to the developed annual training plan and the Board will evaluate salary and training opportunities. The Board will consider an increase in funding in order to fund salaries, equipment and training opportunities during the budget process.

Findings #1: Material Weakness – SCTRCA does not have sufficient staff that have the technical knowledge to administer DBE certifications. There are no written internal controls in place to prevent staff from issuing erroneous certification determinations. (pg. 22)

Auditor's Recommendations: Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process. Develop a corrective action plan to supplement the lack of staff with DBE technical knowledge.

Management's Response: Management agrees with the Auditor that SCTRCA should draft standard operating procedures documents for the certification process and all duties performed by staff. The new Executive Director will draft a standard operating procedure for notification to include a template, calendar for compliance reviews and provide a tentative schedule of staff training schedule.

Management acknowledges that there are more opportunities to increase the training of staff, which is addressed with the new Staff Training Plan developed by the new Executive Director. All staff attended the TUCP training in 2022 and have completed the US DOT DBE/ACDBE online training.

Action Steps: The Certification Appeals Committee shall work with the staff and TUCP to develop a written standard operations procedures manual, and develop a desk audit plan

for review of current DBE/ACDBE/SMWBE/HUB certifications no later than May 1, 2023.

Findings #2: Significant Deficiency - 30 Day Notification of incomplete application to Applicant (pg. 24)

Auditor's Recommendations: Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process. Conduct periodic compliance reports to ensure 30-day notification process is completed by staff.

Management's Response: Management agrees with the Auditor that SCTRCA should draft standard operating procedures documents based on the SCTRCA Policy & Procedures Manual Section 4.03 for the certification process and all duties performed by staff in conformity with the SCTRCA Memorandum of Agreement with HUB. The new Executive Director will draft a standard operating procedure for notification and related templates and establish a calendar for compliance reviews.

Action Steps: B2GNow is contracted by the SCTRCA to facilitate the administration of the certification process on its online platform, the new Executive Director will work with the B2GNow team to review modules and enhancements that may be needed to improve performance, tracking and reporting by May 31, 2023.

Findings #3: Significant Deficiency - Annual Updates (pg. 25)

Auditor's Recommendations: Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process. Conduct periodic compliance reports to ensure the renewal/ renewal notification process is completed and documented by staff. Revise database field terminology to align with regulatory updates from "renewal" to "annual update".

Management's Response: Management agrees with the Auditor that SCTRCA should draft a standard operating procedures manual for the certification process and all duties performed by staff. The new Executive Director will draft a standard operating procedure in compliance with the Basic Requirement (49 CFR §26.83(h)-(j)), will develop a calendar for compliance reviews and contact B2GNow for system updates by December 31, 2023.

Action Steps: The new Executive Director will work with the TUCP to review and update current records providing a report to the Board no than later July 2023 at a full Board meeting.

Findings #4: Significant Deficiency - Entering Information into USDOT's Ineligibility Database (pg. 26)

Auditor's Recommendations: Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process. Conduct periodic compliance reports to ensure the ineligibility database information is uploaded according to federal regulations.

Management's Response: Management agrees with the Auditor that SCTRCA should draft standard operating procedures documents for the certification process and all duties performed by staff. The new Executive Director will draft a standard operating procedure, develop a calendar for compliance reviews and update the USDOT database in conformity with 49 CFR 26.85(f).

Action Steps: The new Executive Director will work with the TUCP to review and update and maintain current records providing a report to the SCTRCA Board no later than July 2023 at a full Board meeting.

Findings #5: Material Weakness - Denial of Initial Requests for Certification (pg. 27)

Auditor's Recommendations: Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process. Implement an Executive Director checklist verifying that the records are reviewed and approval of the certification determination prior to distribution to applicants. Additional intensive certification training is also recommended for all SCTRCA staff.

Management's Response: Management agrees with the Auditor that SCTRCA should draft standard operating procedures documents based on the SCTRCA Policy & Procedures Manual Section 4.02 for the certification process and all duties performed by staff pursuant to the Basic Requirement (49 CFR §26.86(a)) and inconformity with the SCTRCA Memorandum of Agreement with HUB. The new Executive Director will draft a standard operating procedure and has developed internal controls to review the denial letter prior to notice being given to the Applicant.

Action Steps: The new Executive Director will develop internal controls to review files and a template letter to Applicants.

Findings #6: Significant Deficiency - Removal of a DBE's Eligibility (pg. 28)

Auditor's Recommendations: Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive

Director in the certification process. Research the accuracy of “New” vs. “Recert/Renewal/Annual” for decertified firms in database and make appropriate revisions.

Management’s Response: Management agrees with the Auditor that SCTRCA should draft standard operating procedures documents for the certification process and all duties performed by staff. The new Executive Director will develop a plan to execute a review of the discrepancies in determining DBE Eligibility and train staff accordingly.

Action Steps: The new Executive Director has developed internal controls to review files and proposed letters to Applicants in conformity with the regulations and/or the SCTRCA Business Enterprise Certification Program Policy and Procedure Manual requiring the UCP to send a letter (Proposed Decertification Letter), by certified mail, registered mail, return receipt requested by Federal Express or a comparable bona fide overnight courier, with signature required, to the DBE firms for whom the SCTRCA is proposing to remove their certification and provide an opportunity for an informal hearing.

Findings #7: Significant Deficiency - Inaccuracies in Certification Process (pg. 34)

Auditors Recommendations: Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process. Implement periodic record compliance procedures to ensure data is correctly entered in the SCTRCA system.

Management’s Response: Management agrees with the Auditor there are some user errors when the applicants enters data into B2GNow. The SCTRCA should draft standard operating procedures documents for the certification process and all duties performed by staff. SCTRCA recognizes the applicants do not always enter all the information in all the fields. The only time an applicant has access to B2Gnow system is when they are submitting New Initial Certifications, Interstate Certifications, Annual Renewals, Expansions, and Changes. Board noted that per the Certification Audit Report, there is 98% accuracy rate on local business certifications, which is exemplary.

Action Steps: The new Executive Director has developed internal controls and will review the B2GNow process in order to help reduce data errors.

Findings #8: Significant Deficiency - Procedures for Certification Denials and Appeals (pg. 35)

Auditors Recommendations: Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process. Implement periodic record compliance procedures to ensure data is correctly entered in the SCTRCA system.

Management’s Response: Management agrees with the Auditor that SCTRCA should draft standard operating procedures documents for the certification process and all duties

performed by staff. The new Executive Director will draft a standard operating procedure and has developed internal controls to review the denial letter prior to giving notice to the Applicant.

Action Steps: Staff has completed training for the State HUB program and local Business Enterprise Certification Policy & Procedures.

Findings #9: Advisory Comment – Recertification (pg. 35)

Auditor’s Recommendations: Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process. Implement periodic record compliance procedures to ensure data is correctly entered in the SCTRCA system.

Management’s Response: Management agrees with the Auditor that SCTRCA should draft standard operating procedures documents for the certification process, to include notices and/or reminders to applicants, and all duties performed by staff. The new Executive Director will implement procedures and develop internal controls to ensure data accuracy.

Action Steps: The new Executive Director is reviewing the duties and now training the Intake Clerk on procedures for more efficient and effective system data and notifications.

Findings #10: Significant Deficiency - Previous Certified Vendor Request for Expedited Reinstatement (pg. 36)

Auditor’s Recommendations: Outline a tracking parameter to ensure this course of the generation revenue is not abused by the SCTRCA.

Management’s Response: Management agrees with the Auditor that SCTRCA should have a mechanism in place to ensure that these services are not abused. The SCTRCA Board is currently evaluating and will continue to assess ways the SCTRCA can remove fees that are perceived barriers to business owners within the SCTRCA jurisdiction.

The Board has taken certain steps already to remove such fees and will increase efforts to notify vendors for renewal.

Action Steps: The SCTRCA will review and establish new and/or different financial policies and controls, to include a segregation of certain duties, for any needed updates as part of the Policies & Procedures/Personnel Committee’s review process with proposed recommendations and revisions, incorporating recommendations from the Financial Audit, which is scheduled to be completed in April of 2023, to come to the full Board for consideration and approval by July 31, 2023.

Findings #11: Significant Deficiency - Revocation (pg. 36)

Auditor's Recommendations: Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process. Implement periodic record compliance procedures to ensure data is correctly entered in the SCTRCA system.

Management's Response: Management agrees with the Auditor that SCTRCA should draft standard operating procedures documents based on the SCTRCA Policy & Procedures Manual Section 4.04 for the certification process and all duties performed by staff in conformity with the SCTRCA Memorandum of Agreement with HUB. The new Executive Director will draft a standard operating procedure and has developed internal controls to review denial letter prior to notice being given to the Applicant.

Action Steps: The SCTRCA will review and establish new and/or different financial policies and controls, to include a segregation of certain duties, for any needed updates as part of the Policies & Procedures/Personnel Committee's review process with proposed recommendations and revisions, incorporating recommendations from the Financial Audit, which is scheduled to be completed in April of 2023, to come to the full Board for consideration and approval by July 31, 2023.

Findings #12: Advisory Comment - Certification Reviews. (pg. 37)

Auditor's Recommendations: The SCTRCA should update fields in the database system to align with terms used in the Business Enterprise Certification Program for tracking and reporting purposes.

Management's Response: Management agrees with the Auditor that SCTRCA should draft a standard operations procedures manual for certification procedures working with B2GNow that would allow the SCTRCA to update fields in the database system to align with terms used in the Business Enterprise Certification Program for tracking and reporting purposes.

Action Steps: The new Executive Director will work with B2GNow to update and/or develop the necessary enhancements by June 30, 2023.

Findings #13: Significant Deficiency- Site Visit (pg. 37)

Auditor's Recommendations: Draft a standard operations procedures manual that prescribes detailed workflow responsibilities for Intake staff, Specialists and Executive Director in the certification process. Implement periodic record compliance procedures to ensure data is correctly entered in the SCTRCA system.

Management's Response: Management agrees with the Auditor that SCTRCA should draft standard operating procedures documents based on the SCTRCA Policy & Procedures Manual Section 4.06 for the certification process and all duties performed by staff in conformity with the SCTRCA Memorandum of Understanding with HUB. The new Executive Director will draft a plan to execute a review of the discrepancies and train staff.

Action Steps: The new Executive Director will work with B2GNow to update and/or develop the necessary enhancements by June 30, 2023.

Unanimously Approved by the Board of Directors on March 27, 2023

Latifah Jackson, Board Chair
University Health