

**National Women Business Owners Corporation  
STANDARDS & PROCEDURES  
for National Certification Program**

**SECTION 1 – GENERAL PROVISIONS**

**1-101 Definitions.**

- (1) Applicant means a business entity (not the woman owner) that has applied for certification with the National Women Business Owners Corporation (NWBOC).
- (2) Beneficiary means a person who is entitled to enforce a trust.
- (3) Business means a for profit sole proprietorship, general partnership, limited partnership, limited liability partnership, corporation (Subchapter C or Subchapter S), and limited liability company, as defined under the laws of the jurisdiction where the Applicant was organized, whose headquarters is located in the United States or one of its trust territories.
- (4) Certified Business means a business that has been certified by NWBOC as owned, controlled, and operated by a woman.
- (5) Debt means a fixed and certain obligation to repay indebtedness for money borrowed or a similar obligation, such as a purchase money or seller note of obligation.
- (6) Equity Security means (i) shares in a corporation, e.g., common stock or preferred stock, (ii) interest of a partner in a partnership, (iii) profit participation in the aggregate profits of a business or (iv) option, warrant or right, other than a right to convert, purchase, sell, or subscribe to a share, security or interest of a kind specified in (i) or (ii).
- (7) Front Operation means an entity falsely posing as a business owned and controlled by a woman.
- (8) Obligor means a person who has promised to perform an obligation.
- (9) Obligee means a person in favor of whom an obligation is contracted.
- (10) Own means to have legal or beneficial title to property and to be entitled to all of the economic attributes with respect thereto, including the right to earnings and profits.
- (11) Site Visit means an inspection of the Applicant's headquarters, operations and its books and records by an NWBOC trained site visitor to ensure that the Applicant meets the certification standards.
- (12) Standards refer to the National Women Business Owners Corporation National Certification Program Standards and Procedures.
- (13) Trust means a right of property, real or personal, held by one party for the benefit of another.
- (14) Woman (unless the context otherwise requires) means a woman and women and entities certified by NWBOC as a Woman Business Enterprise.
- (15) Woman Business Enterprise (WBE) means a business that has been certified by NWBOC as being owned, controlled and operated by a woman or women.

**1-102 Principle of Ownership and Control**

An Applicant shall be eligible for certification only if a woman owns, controls, and operates the business.

**1-103 Unconditional Ownership and Control, and Contingent Interests.**

(1) Unconditional Ownership and Control. Ownership and control must be unconditional. This means that ownership and control of an Applicant must not be subject to conditions precedent, conditions subsequent, executory agreements, partnership agreements, profit-sharing syndications, voting trusts, by-law provisions, shareholder agreements or other similar arrangements which effectively transfer ownership or control of the Applicant from a woman to a man or entity owned or controlled by a man such as the existence of any formal or informal restrictions which limit the discretion of the woman-owned business such as restrictions through corporate charter provisions, bylaws, contracts or any other formal or informal devices (for example, cumulative voting rights, voting powers attached to different classes of stock, employment contracts, requirements for concurrence by non-women partners, conditions precedent or subsequent, executory agreements, voting trusts, restrictions on or assignments of

voting rights) that prevent the woman, without the cooperation or vote of any man, from making a business decision for the Applicant. (A requirement that a spouse co-sign certain financing documents does not signify a lack of independence.)

**COMMENTARY:**

(I) Closely held businesses with more than one owner frequently have provisions providing restrictions on transfer of an owner's interest and rights of first refusal in the entity and/or other owners. These agreements may also require a sale of an owner's business upon the occurrence of certain events which terminate the owner's active involvement in the business; for example, on the death, disability or retirement of the owner. Often the price is based on a formula. These arrangements are often contained in the organizational agreement for the entity such as an operating agreement of an LLC or a partnership. They should be closely scrutinized but should not preclude a woman whose ownership interest is subject to reasonable laws to which substantially all other owners are subject, for being considered owned by the woman.

(II) The business must be in fact and perceived by the public as woman owned, controlled and operated. Perception as to who runs and represents the business is a factor in granting WBE status to a company.

(2) Contingent interest. Contingent interests in warrants, convertible debentures, stock options and similar Equity Securities will be viewed as having a present effect on ownership and control if the conditions for exercise of these interests are reasonably likely to occur within 12 months from the date of certification.

**COMMENTARY:**

Third Party Analysts (see Section 4-104) may be useful in analyzing these issues.

**1-104 Independence.**

(1) Tax Recognition Alone Is Insufficient. An Applicant shall be an independent business. Recognition of the Applicant as a separate entity for tax or corporate purposes is not sufficient in determining whether an Applicant is an independent business.

**COMMENTARY:**

It is common for a former owner to remain on the board of directors to protect his investment, so the potential for the former owner to resume control must be reviewed. The former owner may have the right to repurchase company assets if payments on promissory notes are not timely made, and the potential for such a repurchase must be scrutinized.

(2) Employment Relationships. A previous and/or continuing employer/employee relationship between Applicant and a past or present owner must be carefully reviewed to ensure that the Applicant is a woman controlled business and not controlled by a male employee.

**COMMENTARY:**

If an Applicant is sharing resources such as office space, equipment, or staff, with a male-owned business, this must be carefully reviewed to understand the magnitude and length of time of these shared resources versus those that are directly owned.

(3) Other Arrangements. An independent business is one the viability of which does not depend on its relationship with another business or businesses. In determining whether a woman controls the entity, the following factors should be considered:

a. Relationships with male owned businesses in such areas as personnel, facilities, equipment, financial and/or bonding support and other resources.

b. Relationships with prime contractors to determine the existences of a pattern of exclusive or primary dealings that could compromise the independence of the woman owned Applicant.

c. Whether the relationship between the Applicant and male owned businesses is consistent with normal industry practice.

## **SECTION 2 – OWNERSHIP**

### **2-101 Principle of Ownership**

An Applicant shall not be eligible for certification unless a woman owns one of the following:

- (1) 100% of the assets of a sole proprietorship;
- (2) At least 51.0% of each class of proprietorship interests in a partnership as reflected in the partnership agreement;
- (3) At least 51.0% of each class of voting stock of a corporation and at least 51.0% of the aggregate of all stock outstanding determined by the percentage that would be distributed to a woman if the corporation were liquidated; or
- (4) At least 51.0% of each class of membership interest in a limited liability company.

#### **COMMENTARY:**

The 51.0% threshold is intended to guarantee female control because simple majority for quorums & vote requirements are most common. In cases where an organization's documents require a super majority, the females must still be able to prevail.

### **2-102 Holding of Assets**

- (1) Direct Ownership of Assets. All assets purportedly comprising the ownership interest of a woman shall be held directly by her except as provided in subparagraph (3) and (5) below.
- (2) Asset Attribution. Where a woman is the principal obligor on a debt, that portion of the debt, which has been paid by her to obligee, shall be considered an asset of the woman.
- (3) Assets Held in Trust. Securities or assets held in trust are regarded as held by a woman for purposes of determining ownership of the business, if the beneficial owner of securities or assets held in trust is a woman, and the trustee is the same or another woman.

#### **COMMENTARY:**

This use of trusts as an estate-planning device is common among small business owners, and NWBOC wants to ensure that women business owners have the same opportunity as men business owners to take advantage of it.

#### **(4) Assets Acquired for Less Than Full Consideration.**

a. For purposes of determining ownership, all interests in a business or other assets obtained by a woman as the result of a gift, or transfer without adequate consideration (other than a gift or transfer by a trust instrument) from any of the following who are not woman owned shall be presumed as not being owned by a woman:

- i. A person involved in the Applicant or an affiliate of the Applicant;
- ii. A person involved in the same or a similar line of business as the Applicant; or
- iii. A person engaged in an ongoing business relationship with the Applicant, or an affiliate of the Applicant.

b. To overcome this presumption and permit the interests or assets to be counted, the Applicant must demonstrate, by clear and convincing evidence, that:

- i. The gift or transfer to the woman was made for reasons other than obtaining certification; and
- ii. The woman actually controls the management, policy, and operations of the Applicant, notwithstanding the continuing participation of the person who provided the gift or transfer.

#### **COMMENTARY:**

Transactions, which do not reflect "market" values, may be found to be legitimate. For example, the assets may have been purchased as part of a workout, or tax considerations may have played a major role in structuring a transaction.

(5) Ownership by NWBOC certified entities. Assets owned by an NWBOC certified entity shall be deemed female owned.

**2-103 Community Property.**

The determination of ownership shall be made without giving effect to state community property laws.

COMMENTARY:

This provision is intended to prevent discrimination against a woman based upon her marital status or state marital property laws.

**2-104 Inherited Property.**

Inherited interests over which the woman has actual control shall be counted toward ownership interest.

**2-105 Contributions to Business.**

Contributions of capital or services by a woman to acquire her interest in the Applicant shall be real and substantial.

COMMENTARY:

(I) Examples of insufficient contributions include unsecured or inadequately secured promise to contribute capital, and an overvalued non-cash contribution.

(II) A note payable to the Applicant is considered real and substantial if it is a consistently current obligation, and the loss of shares is not reasonably likely.

(III) A contribution of capital may include issuance of stock to the woman owner in exchange for cancellation of the corporation's indebtedness to her.

(IV) Expertise alone is not sufficient. Expertise in the services provided, however, is considered a contribution. For example, where an attorney is the sole proprietor of a law firm and decides not to be paid salary for a certain period of time, the fair market value of her salary can be counted as services toward the capitalization of the firm.

(V) Transactions, which do not reflect "market" values, may be found to be legitimate. For example, the assets may have been purchased as part of a workout, or tax considerations may have played a major role in structuring a transaction.

(VI) Third Party Analysts (see Section 4-104) may be useful in analyzing this issue.

**2-106 Proportional Compensation, Profits and Risks**

(1) Profits. Receipt of profits in proportion to the risk incurred by a woman owner is highly indicative of ownership. Reinvestment of Applicant's profits by the woman owner into the Applicant is acceptable so long as all other owners do the same.

(2) Compensation. Compensation of the woman CEO compared to compensation of other officers is also highly indicative of ownership and control. Salaries are an indication of the officers & employees value to the business. Allowing a male owner or officer to have the larger salary than the female owner or CEO raises a presumption that the male is actually the CEO. The burden will be on the applicant to rebut that presumption.

(3) Dissolution. In the event of the liquidation, dissolution, bankruptcy, or reorganization of Applicant, the woman owner must be entitled to receive at least 51.0% of assets left to be distributed after all creditors are paid, or otherwise provided for.

**2-107 Joint Venture.**

A joint venture will not be certified because parties to a joint venture lack ownership interests in the venture. A joint venture relationship may, however, result in the creation of an independent business. This new business can be certified if it otherwise meets the Standards.

## SECTION 3 – CONTROL

### 3-101 Principle of Control.

An Applicant shall not be eligible for certification unless a woman has control as described below:

- (1) 100% of the control of a sole proprietorship;
- (2) At least 51.0% of the control of a general partnership;
- (3) The woman owner shall be the general partner, and if there is more than one general partner, the managing general partner, of a limited partnership or a limited liability partnership;
- (4) The woman owner must be entitled to appoint a majority of a corporate board of directors and women must either comprise the majority of the directors or the women directors must be able to meet and act without the concurrence of the male directors;
- (5) A woman owner must be the sole manager if there is only one manager or, the woman owner must be able to appoint unconditionally the majority of managers of a manager managed LLC or have at least 51.0% control of a member managed LLC.

#### COMMENTARY:

(I) Control or lack of it can be established through disproportional voting schemes, irrevocable proxy, voting agreements, voting trusts, shareholder agreements or by-laws which provide that certain classes of stock limit voting to certain directors. Irrevocable proxies or voting trusts in favor of a woman can be counted in determining a woman's control if the agreements appear valid under the circumstances.

(II) Provisions in partnership agreements that permit the partners to oust a general partner without cause must be scrutinized carefully.

(III) The business must be in fact and appearance woman owned, controlled and operated. Perception as to who runs and represents the business is a big factor in granting WBE status to a company.

(IV) The 51.0% threshold is intended to guarantee female control because simple majority for quorums & vote requirements are most common. In cases where an organization's documents require a super majority, the females must still be able to prevail.

### 3-102 Leadership Position.

A woman must serve as the Chief Executive Officer, or in the equivalent position with the Applicant as shown in the Applicant's organization documents. A woman must have served as CEO, or equivalent office, for at least 6 months prior to applying for certification.

#### COMMENTARY:

(I) In a closely held corporation, the President generally dictates its operations and, therefore, would be the equivalent of the Chief Executive Officer. However, many owners of closely held corporations prefer the title of Chairman in their capacity as Chief Executive Officer. This is especially true where there are multiple corporations.

(II) The woman CEO is expected to routinely devote adequate time during normal working hours at the business in the exercise of her authority and duties.

### 3-103 Franchises.

A franchise agreement entered into by an Applicant which contains provisions typically used by the same franchiser in agreements with other franchisees, such as requirements for quality, advertising, and accounting, does not necessarily evince a lack of control by the Applicant. The Standards, however, must otherwise be met and the franchisee must have a right to profit from its efforts and bear a risk of loss commensurate with its ownership.

#### COMMENTARY:

One avenue for making this determination would be to review a pro forma franchise agreement. NWBOC may also request an affidavit from the franchiser that its agreement with Applicant is closely aligned with the level of control it requires of all its franchisees.

### **3-104 Management and Operational Decisions.**

(1) Woman Directs. A woman shall exercise the power to direct the management and operations of the Applicant. She must have authority to sign checks and contracts on behalf of the business entity. The woman who holds the highest officer position may not engage in outside employment that prevents her from devoting sufficient time and attention to the daily affairs of the business to control its management and daily business operations.

(2) Experience and Delegation. A woman owner's entrepreneurial experience, or managerial, technical, or professional experience in the industry in which the Applicant seeks certification is indicative of the woman's control of the business. A woman owner, however, need not have more expertise in a given area than an employee; may delegate functions to employees; and may rely on the judgment of those employees, regardless of their sex, providing that she possesses sufficient background to be able to use intelligently, and evaluate critically, the information presented by her employees.

#### **COMMENTARY:**

(I) Whether a woman owner holds a professional license does not, in and of itself, determine whether she controls the business. This factor, along with others, should be evaluated together to make this determination. The exception is where the owner is required to be licensed to work in her industry. Also, if a man possesses the required license and has an equity interest in the business, he may be found to control the business.

(II) Delegation of various tasks by owners in the day-to-day business of a company is a necessary and common activity. For example, an owner may delegate the task of issuing checks to other employees up to an established limit.

(III) Volunteer work should be evaluated in assessing experience in the same fashion as work that is compensated.

### **3-105 Useful Business Function.**

The Applicant must perform a useful business function according to the custom and practice of the industry in which it does business. A commercially useful function means the performance of actual services which are integral to, and necessary for, the performance of a contract.

#### **COMMENTARY:**

This section is intended to prevent a front operation from forming solely to act as a conduit to funnel goods and services from the producer to the purchasing entity for purposes of a particular contract.

### **3-106 Debt.**

(1) Reasonable Rate. Debt instruments must provide for a reasonable annual rate of interest. A lack of reasonable terms in debt instruments may evidence a lack of control by the Applicant. An annual rate of interest is considered reasonable on the date the determination is made if it is a rate within the range of rates paid to similar financial institutions or other investors by other obligators of the same or similar credit quality on similar instruments during the period of time that the debt was actually incurred.

(2) Reasonable Payment Schedule. The debt instruments must contain a reasonable debt repayment schedule, and payments must be made in accordance with that schedule. The debt instrument must also have a specified maturity date unless the instrument is payable on demand by the obligee.

#### **COMMENTARY:**

(I) Debt with commercially unreasonable terms may also be disguised equity, particularly in distressed situations. This should be scrutinized carefully.

(II) An obligee's potential remedies such as the ability to foreclose on real or personal property does not, in and of itself, affect the woman's ownership interest.

## SECTION 4 – CERTIFICATION PROCEDURES

### **4-101 Application; Cooperation.**

(1) Submission and Fee. An Applicant shall submit a timely completed certification application and all supporting documentation to NWBOC. A nonrefundable application processing fee in the amount specified by NWBOC must be paid when the application is submitted.

(2) Cooperation. The Applicant must cooperate fully with NWBOC in application and on-site reviews, and appeal, decertification and challenge proceedings. The Applicant must provide information by the dates requested by NWBOC. Failure, or refusal, to timely furnish requested information, or any other failure to cooperate, will result in denial of certification of the Applicant.

### **4-102 Notices.**

All communications between the Applicant and NWBOC shall be sent by any of the following: US mail, email, fax, or nationally recognized courier.

### **4-103 Withdrawal.**

The Applicant may, at any time, request in writing to NWBOC that its application be withdrawn. A portion of the application fee may be refundable if the application has not been completely processed.

#### COMMENTARY:

NWBOC and the certification committee shall either return or destroy all documentation submitted by the Applicant which is in the possession of either of them.

### **4-104 Required Proof and Third Party Analyses.**

The Applicant is obligated to prove that a woman owns, controls and operates the entity. The Applicant must do so through the application, supporting documentation, and the site visit. In addition, the Applicant may submit a legal opinion, provided that it is reasonably satisfactory in form and substance to NWBOC and expressly provides that NWBOC, and all parties accepting NWBOC certification may rely on it. Appraisals or valuations performed by appraisers or financial advisors will also be considered. Attorneys, certified public accountants, appraisers and financial advisors are known collectively as "Third Party Analysts." Legal opinions, audits, appraisals and valuations shall be considered representations by the Applicant and relied on by the same persons and for the same purposes as representations of Applicant.

#### COMMENTARY:

(I) Legal opinions may be given in various situations, such as making a determination of how a state's partnership law may resolve a governance issue which is not addressed in the partnership agreement.

(II) Legal opinions will probably only be effective options for larger companies which have sophisticated business structures.

(III) All Third Party Analysts must be reputable, and have no financial or business interest in the Applicant.

(IV) Where an Applicant can demonstrate it satisfied a regulatory body's ownership or control criteria, this determination will be considered in NWBOC decision. An example of this is the analysis by the National Association of Securities Dealers regarding who controls broker/dealers subject to regulation by NASD.

### **4-105 Confidentiality.**

(1) Safeguards. NWBOC, the Certification Committees, and site visitors shall take all reasonable measures to safeguard Applicants' information from disclosure to third parties other than (a) information requested by subpoena, court order or other judicial, administrative or litigation process, or as otherwise may be required by law; (b) information that was already made public other than through the act or omission of NWBOC or its Certification Committees or (c) on a "need to know" basis for employees, officers, directors or consultants of NWBOC and its Certification Committees and site visitors who agree to the same confidentiality obligation.

(2) NWBOC Database. Applicants will be informed that certain fields so designated in their application will be maintained in the NWBOC Database.

**4-106 Application Review.**

The NWBOC staff shall determine if the application and all supporting documentation are in compliance with the Standards. Applicants will be required to submit any missing information within 30 days of the request. Failure to provide the information in the time allotted will result in the Applicant's file being administratively closed.

**COMMENTARY:**

If the file is administratively closed, NWBOC will return or destroy all documentation submitted by the Applicant.

**4-107 On-Site Review.**

An on-site review may include interviews, scheduled or unannounced visits to job or facility sites, and inspection of documentary materials relevant to the Applicant, which were not previously available for review. The on-site review will be conducted by NWBOC trained site visitors. NWBOC carefully screens site visitor candidates for their knowledge of business operations, WBE experience, and their interest in working with NWBOC applicants. Once accepted, individuals are trained to perform mandatory site visits for each applicant company. Site visitors receive training in the history of the organization, the requirements of NWBOC's WBE and SBA certification programs, the Standards and Procedures of the organization, the materials to be used during a site visit and selected information on the company to be visited. Site visitors include individuals from corporations, government agencies, certified WBEs, and other business professionals. Signed Confidentiality Agreements are required to avoid any conflict of interest.

**COMMENTARY:**

(I) Interviews may be conducted with the Applicant and third parties such as customers and suppliers. Telephone interviews prior to site visits may also be conducted.

(II) The review of company books and records is limited to those documents relevant to an evaluation of ownership and control.

(III) In situations where a site visitor is reviewing an entity that is not located in the site visitor's city, because there is no site visitor in the Applicant's city, the Applicant may be charged for the cost of travel to the site(s).

(IV) Virtually all site visits should be announced to the Applicant. Generally, it would be in NWBOC's interest to undertake site visits in this manner because the site visitors would want to ensure that key staff members of the Applicant would be available to meet with them. Where, however, there is a concern about who controls the enterprise, which an unannounced visit might resolve, an unannounced visit is one tool NWBOC may use in its review so long as it informs all Applicants it may do so when the certification process is initiated.

(V) All those who conduct site visits will be trained by the NWBOC staff to conduct this function, and will be given site visit forms to complete.

**4-108 Certification Committee.**

(1) Establishment. The NWBOC President shall appoint Certification Committees which shall be composed of an odd number of members and no less than three members. An experienced business attorney and certified public accountant must be included as members of the Committee. The other member or members can be corporate or government representatives or women entrepreneurs.

## COMMENTARY:

It will also be important in some situations that the Certification Committees have access to industry representatives to develop an understanding of how firms typically operate in the industry in which the Applicant operates.

- (2) Duties. Pursuant to an agreement, all members of the Certification Committee shall maintain financial interest and trade confidences disclosed in the certification process, and disclose conflicts of interest. Under no circumstances may a member receive information about an Applicant, or work on the review and processing of, or participate in the decision-making regarding an application, if (a) such member, or any entity with which such member has an employment or investment interest, is a direct competitor of the Applicant; (b) has conducted a material amount (i.e., greater than \$10,000) of business with the Applicant within the past 12 months; or (c) has a direct or indirect economic interest in the Applicant, or is related by blood, marriage or adoption to any officer, director or greater than 5% owner of the Applicant.
- (3) Meetings. The Certification Committee should meet monthly, or more often as necessary to fulfill the demand by the Applicants. A quorum is necessary to conduct the business of the Committee, and quorum is defined as a majority of the number of Committee members serving at the time of any vote.
- (4) Review of Application and Decision. The Certification Committee shall review all applications, Third Party Analyses, and site visit reports and make the decision regarding Certification of the Applicant. A simple majority is required for all decisions.

### **4-109 Certification Decision.**

The Certification Committee will review the application documents and the site visitor's report and will then vote to approve or deny certification or taken other appropriate action e.g. recommend another site visit. This decision will normally be made within 30 days of the delivery to the Committee of the site visitor's report. Provided however, if the application documents indicate the applicant does not meet the Standards, certification may be denied without a site visit.

### **4-110 Notice, Duration and Use of Certification.**

- (1) Notice. NWBOC will inform the Applicant in writing of the Certification Committee's decision on its application. The Notice of Certification will inform the Applicant that it has been certified within specific commodity or service industries. The Notice will also state the 12-month certification validation period. NWBOC will inform the Applicant, which has been denied certification, of the grounds for denial and the Applicant's right to appeal.
- (2) Duration. Certification shall be valid for one year, unless Section 6-101 is invoked.
- (3) Posting of Decision. All decisions by the NWBOC Certification Committees to grant or deny certification will be posted on the NWBOC Database.

### **4-111 Disclosure Obligation.**

A business certified by NWBOC has a continuing obligation to report material changes in ownership or control to the Certification Committee in writing and, if necessary, reapply for certification within 30 days of the effective date of the change. Failure to do so may result in decertification when discovered by NWBOC.

## **SECTION 5 – APPEAL OF DENIALS OF CERTIFICATION**

### **5-101 Filing an Appeal.**

An Applicant that believes it has been wrongly denied certification may appeal the denial by submitting a written request to NWBOC within 30 calendar days of the date shown on the denial of certification issued by NWBOC. An untimely Request shall be rejected. No specific form is required for the Request, but the requirements of Section 5-102 must be met.

### **5-102 Grounds.**

The Request must identify the decision for which a reexamination is sought; set forth specific reasons as to why the decision is alleged to be erroneous; and present written arguments in support of such allegations.

### **5-103 Appeal Process**

The NWBOC President shall appoint a Committee to review the Appeal Request. The review of the Request shall occur no later than 120 days after the date the Appeal Request is delivered to NWBOC Headquarters.

### **5-104 Notice and Finality of Decision.**

The Applicant shall be notified in writing of the decision, which shall be final.

## **SECTION 6 – COMPLIANCE REVIEWS & DECERTIFICATION**

### **6-101 Grounds for Decertification.**

The certification of a Certified Business shall automatically terminate for the following reasons without any further action on the part of NWBOC.

- (1) Cessation of business operations, including sale, exchange or transfer of ownership.
- (2) Failure of the business to continue to meet the Standards.
- (3) Failure or refusal of the business to cooperate as defined in Section 4-101.
- (4) Failure to provide notice to NWBOC within 30 days of a change in the status of ownership or control reasonably likely to affect its ability to meet the Standards as provided for in Section 4-111.
- (5) Submission of any false or misleading information, or misrepresentation by omission, or any attempt to circumvent the Standards.
- (6) Failure to submit an application for renewal of certification and required documentation within the time period provided for in Section 8-102.

### **6-102 Right to Initiate Compliance Review, Decertification, and Notice.**

- (1) Grounds for Review. NWBOC may initiate a compliance review of a Certified Business whenever it has reason to believe that grounds for decertification may exist.
- (2) Process for Review. After NWBOC decides to initiate a compliance review, it will take the following actions: (a) inform the Certified Business in writing of NWBOC's concerns about the Certified Business' continued eligibility, and (b) provide the Certified Business an opportunity to respond to these concerns in person and in writing.
- (3) Notice. NWBOC will provide the Certified Business with a written explanation of the reasons for the final decision. All decisions by NWBOC to decertify a business will be posted on the NWBOC Database.

## **SECTION 7 – CHALLENGES**

### **7-101 Notification.**

Any third party aggrieved by NWBOC's certification of a business may challenge the certification of the business. The challenge shall be made in writing to NWBOC. No specific form is required for a challenge but the written challenge shall include a statement that challenger agrees to comply with and be subject to this Section 7. The Certified Business and the third party challenger shall each pay one-half the cost of processing the challenge. The party who does not prevail shall reimburse the other party.

### **7-102 Grounds.**

The challenging party shall include all information to support the assertion that the Certified Business is not owned and controlled by a woman. A challenge must be sufficiently specific to provide reasonable notice as to the grounds upon which the certification is challenged. A challenge merely alleging that the Certified Business is not owned and controlled by a woman

without setting forth any basis for the allegation will not be deemed adequate. Challenges that do not contain sufficient specificity may be dismissed by NWBOC.

**7-103 Notice to Certified Business.**

NWBOC shall notify the Certified Business in writing that its status has been challenged. The notice shall identify the challenging party and delineate the grounds for the challenge. The notice shall also require the Certified Business to provide to NWBOC information sufficient to permit it to evaluate the challenge within 30 days.

**7-104 Determination of Challenge.**

NWBOC shall determine on the basis of information required in Section 7 whether there is reason to believe the assertion. If NWBOC determines that there is no reason to believe the assertion, it shall so inform the challenging party and Certified Business in writing. This notice terminates the proceeding. If NWBOC determines there is reason to believe the assertion may be valid, it shall begin a review as provided for in Section 5 and so inform the challenging party and Certified Business in writing. All decisions by NWBOC regarding challenges will be posted on the NWBOC Database.

**SECTION 8 – MISCELLANEOUS**

**8-101 Reapplication.**

If an Applicant's application for certification or re-certification is denied, such Applicant may, after one year, reapply for certification upon the submission of information indicating a change of circumstances that caused the original denial or termination of certification. The procedures in Section 4 shall also be followed.

**8-102 Renewal of Certification.**

A Certified Business shall make an application for renewal of certification annually and submit a renewal fee to be determined from time to time by NWBOC. The renewal form shall be submitted no later than thirty (30) calendar days and no earlier than sixty (60) calendar days prior to the expiration of the certification. Upon consideration of the information submitted by the Applicant for renewal of certification, NWBOC shall determine whether continued certification is warranted. In making this determination, NWBOC shall apply the standards as they exist at the date of the renewal application. NWBOC shall then notify the Certified Business of the decision on the renewal prior to the close of the certification period. NWBOC will assess a reinstatement fee for reinstating an expired certification.

**COMMENTARY:**

The renewal application, which will be automatically mailed by NWBOC to the Certified Business, will be short and simple. It will include a request that the Certified Business state that there has been no material change in the business since it was certified that would affect its status as a woman-owned and controlled firm. This annual renewal is also important because it ensures that NWBOC has continuously updated information on certified businesses to provide purchasers on the NWBOC Database.

**8-103 Modifications of Standards and Procedures.**

The Standards comprise a living document that will be continuously refined to meet the evolving needs of NWBOC's stakeholders. These Standards may be revised at any time by the NWBOC Board of Directors without advance notice to any Applicant or other party.