

Personal Net Worth Requirement for MBE/WBE Certifications

On June 18, 2020, Ordinance #200428 was passed revising the following section to include the following provision:

“Submission of documentation evidencing that an owner meets the personal net worth criteria shall begin on July 1, 2020 and be completed by August 1, 2020.”

According to the revised MBE/WBE Ordinance; Chapter 3; Sections 3-421 (a) (34) and 2-421 (a) (47):

“Beginning October 1, 2019, a for-profit small business concern must meet the following additional criteria to qualify as a MBE (and / or WBE):

(34) (f) and (47) (f). Whose owner’s, or for businesses with multiple owners, each individual owner’s personal net worth (as defined in this section) is equal to or less than the permissible personal net worth amount determined by the U.S. Department of Transportation to be applicable to the DBE program.”

Personal Net Worth is defined in Chapter 3; Section 3-421 (a) (36) as follows:

“(36) Personal net worth: The net value of the assets of an individual after total liabilities is deducted. An individual’s personal net worth does not include the individual’s ownership interest in a certified M/WBE or applicant for such certification or the individual’s equity, if any, in his or her primary place of residence. An individual’s personal net worth includes only his or her share of assets held individually or jointly with the individual’s spouse.”

Questions & Answers

Question: My company is currently certified as a MBE (and / or WBE). When will I be required to submit the personal net worth documentation?

Answer: You will be required to submit the personal net worth documentation, including the personal net worth affidavit and the personal net worth statement between July 1, 2020 and August 1, 2020.

Question: I have already submitted my Annual Update for 2020, am I still required to submit the personal net worth documentation?

Answer: Yes. As of July 1, 2020, all companies certified as MBE and / or WBE are required to submit the personal net worth documentation including the personal net worth affidavit and the personal financial statement by August 1, 2020.

Question: I already applied for MBE and /or WBE certification. Will I be required to provide the personal net worth documentation?

Answer: Yes. As of July 1, 2020, all applicants for MBE and / or WBE certification will be required to provide the personal net worth documentation including the personal net worth affidavit and the personal financial statement by August 1, 2020.

Question: What is the current permissible personal net worth amount determined by the U.S. Department of Transportation to be applicable to the DBE program?

Answer: According to the Federal Regulations; 49cfr part 26; section 26.67:

(2)(i) You must require each individual owner of a firm applying to participate as a DBE, whose ownership and control are relied upon for DBE certification, to certify that he or she has a personal net worth that does not exceed \$1.32 million.

Question: What documentation of my personal net worth will I be required to submit?

Answer: You will be required to provide a signed affidavit stating that you do not possess a personal net worth in excess of the amount determined by the U.S. Department of Transportation to be applicable to the DBE program. Currently, that amount is set at \$1.32 million. You will also be required to provide a completed Personal Financial Statement on the form to be provided along with any supporting documentation requested.

The Director of the Human Relations Department reserves the right to request any documentation required to verify the information provided on the Personal Financial Statement. This may include: copies of bank statements; copies of investment portfolios; copies of trusts; copies of IRA account statements; copies of Schedule K-1's or other tax return documents for other companies in which the owner or owners hold an ownership interest; audited financial statements; mortgage statements; or any other documents pertaining to the information provided in the Personal Financial statement.

Question: Will this change have any effect on my current certification as a Small Local Business Enterprise (SLBE)?

Answer: No. The Personal Net Worth requirement is not one of the requirements for certification as a SLBE.

Question: I am an owner of a company currently certified as a MBE and / or WBE and I am married. Can I provide a joint Personal Financial Statement with my spouse?

Answer: No. You must provide an individual Personal Financial Statement reporting your share of any jointly-held assets and / or liabilities. If your spouse is also an owner of the firm, and they are also a Minority or Woman, your spouse will also be required to provide an individual Personal Financial Statement (and a personal net worth affidavit). If your spouse is also involved in the firm, and your spouse is not a Minority or Woman, they are not required to provide a Personal Financial Statement.

If your spouse is not an owner of the firm, the Director reserves the right to request additional financial information where necessary to accurately determine your personal net worth. The additional information requested may include information concerning your spouse's assets. This may apply whether or not your spouse has any involvement in the business.

Examples:

1. Company owned by a Minority Female and her spouse, a Minority Male. Both owners would be required to provide a Personal Financial Statement and an affidavit of personal net worth.
2. Company owned by a Caucasian Female and her Caucasian Male spouse. The Woman owner would be required to provide a Personal Financial Statement and an affidavit of personal net

worth. The Caucasian Male spouse would not be required to provide a Personal Financial Statement or personal net worth statement, but financial information for the Caucasian Male spouse may be requested if necessary.

3. Company owned by a Minority or Woman in which the individual's spouse, whether or not that spouse is a Minority or Woman, is also involved as an officer, director, manager, or employee (but not as an owner). The Minority or Woman owner would be required to provide a Personal Financial Statement and an affidavit of personal net worth. The other spouse would not be required to provide a Personal Financial statement, but financial information for the Minority or Woman individual's spouse may be requested if necessary.

Only Minority or Woman owners are required to provide Personal Financial Statements and affidavits of personal net worth. However, financial information may be requested for the spouses of those individuals whether or not they hold an ownership interest in or are involved in the firm in any capacity.

Question: I am a prime contractor on a current City or Agency project and one of my MBE or WBE subcontractors has lost their certification as a result of exceeding the personal net worth requirement. How will this affect my MBE/WBE participation on the contract?

Answer: This will not have any effect on your MBE/WBE participation on the contract. You will continue to be able to count the formerly MBE/WBE-certified firm for participation until the contract expires.

Question: I am a prime contractor submitting a bid for a City or Agency contract and one of the MBE/WBE subcontractors listed on my Contractor Utilization Plan has been decertified due to the personal net worth requirement. Will I still be able to count their participation on the contract?

Answer: If the MBE/WBE subcontractor was still certified when they signed the Letter of Intent to Subcontract, you will still be able to count the MBE/WBE for participation on the contract. If the MBE/WBE subcontractor had already been decertified prior to the date that the Letter of Intent to Subcontract was signed, you will not be able to count their participation towards the goals on the project. However, you will be given the opportunity to find a suitable replacement for the decertified MBE/WBE company.

Question: I am a MBE/WBE prime contractor on a current City or Agency project and I am counting work I am self-performing towards the goals on the contract. I recently lost my MBE/WBE certification due to the personal net worth requirement. Will I still be able to count my participation towards the goals on the contract?

Answer: Yes. You will still be able to count your self-performed work towards the goals on the contract until the contract has expired. You would not be able to count your participation on any future contracts, however. If you lose your certification prior to submission of the Contractor Utilization Plan when bidding a City or Agency project, you would not be able to count your participation towards the goals on the project. However, you would be given the opportunity to find a suitable replacement for your planned participation on the contract.

Question: If I were applying, say I'm single, and the market value of my personal residence is \$500,000: I understand the value of my house is excluded from the assets on the Net

Worth Statement. Further; say, I owed \$220,000 on the residence. Is the \$220,000 included in liabilities?

Answer: What is excluded is the applicant's equity in their personal residence. So if the market value is \$500,000 and they owe \$220,000, the amount excluded would be \$280,000. The \$220,000 cannot be included on the liabilities side.

Question: If I were applying, say I'm married, and my husband sold his portion of the previously jointly owned residence to me so that now I'm the sole owner of the residence. Instead of going through a financial institution for a loan, my husband finances me on the purchase and holds the Note. Would this related party note payable be included in liabilities?

Answer: Again, it would be their equity in the personal residence. Let's say the market value is \$500,000. The mortgage balance is \$220,000 and the balance on the note to her spouse is \$100,000. Her equity would only be $\$500,000 - \$220,000 - \$100,000 = \$180,000$ that can be excluded as her equity in her personal residence. There is also the question of when the "sale" occurred. This would be considered to have been a transfer of assets and if it took place within 2 years of the personal financial statement being filed, it would be evaluated closely, i.e. documentation of the transfer would be requested- copy of loan agreement with spouse, documentation of payments, etc.