Torres Rojas, Genara

From: Shana Attas [mailto:SAttas@fpsflawfirm.com]
Sent: Thursday, January 15, 2015 1:44 PM
To: Duffy, Daniel
Subject: RE: Freedom of Information Request Reference No. 15513

Mr. Duffy,

I would like to amend my request 15513. Please see below.

(1) Copies of any and all documents and records relied upon by the Port Authority in order to define the term "Hispanic Origin" as used by the Port Authority in determining "Minority Business Enterprise (MBE)" status.

(2) Copies of any and all documents and records in the custodial control of the Port Authority which interprets the phrase "Hispanic Origin" as a criteria relied upon by the Port Authority in determining whether a business may be certified by the Port Authority as a MBE.

(3) Copies of any and all documents and records establishing the criteria relied upon by the Port Authority in determining whether an applicant for MBE or DBE certification constitutes a "Hispanic Owned business."

(4) Copies of any and all written communications by the Port Authority denying an applicant's request for MBE certification by the Port Authority, as a Hispanic-Owned Business for the time period of 2012 to 2014.

(5) Copies of any and all documents and records in the custodial control of the Port Authority that were generated during the time period of 2012 to 2014 and that related to an appeal from the Port Authority's rejection of an applicant's request for Port Authority certification as an MBE on the basis that said applicant was not a Hispanic-Owned business as had been alleged by applicant.

(6) Copies of any and all Port Authority appellate decisions issued during the time period of 2012 to 2013 denying MBE certification to an applicant claiming entitlement to such certification on the basis that it was Hispanic-Owned business.

(7) Copies of all Port Authority written approvals of applications for MBE certification issued during the time period of 2010 to 2014 where the applicant's owner's ancestors, upon whom the applicant relied to demonstrate MBE status as a Hispanic-Owned business, were born in Mexico, Puerto Rico, the Dominican Republic, Cuba, Central

America or South America, but their ancestors were born outside of Mexico, Puerto Rico, the Dominican Republic, Cuba, Central America or South America.

(8) Copies of all Port Authority written rejections of applications for MBE certification, issued during the time period of 2010 to 2014, where the applicant's owner's ancestors, upon whom the applicant relied to demonstrate MBE status as a Hispanic-Owned business, were born in Mexico, Puerto Rico, the Dominican Republic, Cuba, Central America or South America, but their ancestors were born outside of Mexico, Puerto Rico, the Dominican Republic, Cuba, Central America or South America.

Shana T. Attas, Esq.
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THE PORT AUTHORITY OF NY & NJ

FOI Administrator

October 23, 2015

Ms. Shana Attas
FPSF
218 Route 17 North
Rochelle Park, NJ 07662

Re: Freedom of Information Reference No. 15513

Dear Ms. Attas:

This is in response to your November 21, 2014 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code", copy enclosed) for copies of the following records: 1. Copies of criteria and/or proofs of origin used to decipher Hispanic Origin in all approved Hispanic Origin MBE applications from 2012-2014. 2 Copies of all MBE denials for applicants for consideration as a Hispanic-Owned business rendered from 2012-2014. 2. Copies of all MBE denial appeals for applicants for consideration as a Hispanic-Owned business filed against the PANYNJ from 2012-2014. 3. Copies of all hearing decisions on MBE appeals for applicants for consideration as a Hispanic-Owned business decided from 2012-2014. 4. Any documents related to the definition of Hispanic Origin used in deciphering MBE Certification Status.

Material responsive to your request and available under the Code can be found on the Port Authority's website at http://www.panynj.gov/corporate-information/foi/15513-O.pdf. Paper copies of the available records are available upon request.

Pursuant to the Code, certain portions of the material responsive to your request are exempt from disclosure as, among other classifications, personal privacy.

Please refer to the above FOI reference number in any future correspondence relating to your request.

Very truly yours,

Danny Ng
FOI Administrator

Enclosure

4 World Trade Center, 18th Floor
150 Greenwich Street
New York, NY 10007
T: 212 435 7348 F: 212 435 7555

MWBE Certified Hispanic-owned Firms
2012-2014

No.	FIRM NAME	Recert/ New	MWBE	M DAT	W DATE	ETHINICITY	STATE	FIRST NAME	LAST NAME	Proof of Ethnicity
1	A & M Uniforms, Inc.	Recert	MW	16-Sep-13	16-Sep-13	Hispanic	CA	Anne Marie	Kusnier	Birth Cert & Naturztn, born Mexico
2	ADG Maintenance Co., Inc.	New	M	31-Dec-12		Hispanic	NJ	Daniel	Basmadjian	US. Passport - Uruguay
3	Abba Construction LLC	New	M	1-Oct-13		Hispanic	NY	Jose	Arias	Amended birth Cert - mother b. Santo Domingo
4	All Around Cleaning Corp.	Recert	MW	10-Aug-12	10-Aug-12	Hispanic	NJ	Claudia	Nino	Birth Cert - Columbia
5	Alliance Promotional Products LLC	New	MW	4-Nov-13	4-Nov-13	Hispanic	NJ	Maribel	Pagan	US Passport, born Puerto Rico
6	Angel Electrical Construction, Inc.	Recert	M	2-Aug-13		Hispanic	NY	Dan	Hernandez	Cert 6.24.96, TRIM box 00/6186 Approved Destruction
7	Apple Maintenance Services, Inc.	Recert	M	22-Jul-13		Hispanic	NY	Manuel	Aguiar	US Passport, born Cuba
8	Aspen Landscaping Contracting, Inc.	Recert	MW	24-Dec-12	24-Dec-12	Hispanic	NJ	Maria	Fuentes	US Passport, born Cuba
9	Austral Construction, Inc.	Recert	M	15-May-13		Hispanic	NJ	Cesar	Ramos	US Passport, born Argentina
10	BSV Metal Finishers Inc.	Recert	M	3-Jun-13		Hispanic	NY	Benjamin	Vasquez	Birth Cert - Puerto Rico
11	Berto Construction, Inc.	Recert	M	20-Mar-13		Hispanic	NJ	Antonio	Vazquez	Cert 7.7.87, TRIM BOX 14/1653, 1684, Destruction Approved
12	Bronx Base Builders, Ltd.	New	M	14-Mar-14		Hispanic	NY	William	Padilla	US Passport - Puerto Rico
13	CBA Elevator Consultants, LLC	New	M	28-Feb-13		Hispanic	NJ	Wilson	Castrillon	US Passport - Colombia
14	CMS Construction	New	M	9-Jul-12		Hispanic	NJ	Carlos	DaSilva	Permanent Resident Card, Brazil
15	Camabo Industries, Inc.	New	MW	29-May-12	29-May-12	Hispanic	NY	Martha C.	Gonzalez	US Passport - Colombia
16	Carabie Construction Corp.	Recert	M	7-Jan-14		Hispanic	NY	Ernest	Sanchez	Birth Cert, father born Puerto Rico
17	Concepcion Electric, LLC	New	M	17-Dec-13		Hispanic	NJ	Joel	Concepcion	Birth Cert & US Passport - Puerto Rico
18	Concepts Office Furnishings, Inc.	Recert	MW	14-May-13	14-May-13	Hispanic	NJ	Zaida	Soto	Birth Cert - Puerto Rico
19	Consolidated Steel & Aluminum Fence Co., Inc.	Recert	M	11-Jul-13		Hispanic	NJ	Angel	Cacicedo	Birth Cert - Cuba
20	Copper Connection, Inc.	New	M	29-Mar-12		Hispanic	NJ	David	Morales	Birth Cert, parents b. Cuba
21	Counter Technology, Inc.	Recert	MW	29-Mar-13	29-Mar-13	Hispanic	MD	Santos	Garza	Birth Cert, parents b. Mexico
22	Cragnolin Engineering and Design Associates, D.P.C	New	MW	31-Jul-12	31-Jul-12	Hispanic	NY	Melanie	Cragnolin	Birth Cert, parents b. Puerto Rico
23	Crew 1 TV, Inc.	New	M	19-Oct-12		Hispanic	NY	Dino	Quaglietta	Death Cert, mother b. Bolivia
24	Cruz Concrete & Guniting Repair Inc	Recert	M	9-Jan-13		Hispanic	NJ	Warren	Cruz	Birth Cert, parents b. Dominican Rep
25	Cyrus Contracting Corp.	New	MW	4-Nov-13	4-Nov-13	Hispanic	NY	Marialisa	Walton Zywotchenko	Birth Cert, parents b. Puerto Rico
26	D-Star Waterproofer, Inc.	Recert	M	19-Feb-14		Hispanic	NY	Antonio	Ramirez	Birth Cert, parents b. Puerto Rico
27	DNC Overhead Door, Inc.	New	MW	19-Dec-12	19-Dec-12	Hispanic	NY	Deborah	Ioimo-Whiffen	Birth Cert, mother b. Puerto Rico
28	Dana Contracting, Inc.	New	MW	31-Dec-12	31-Dec-12	Hispanic	NY	Nilda	Francis	Birth Cert, parents b. Puerto Rico
29	Donerite Trucking, LLC	New	M	2-May-14		Hispanic	NJ	Franklin	Aguilar	Cert 5.2.2014, US Naturalization - Ecuador
30	ESPINOSA GROUP INC THE	New	M	7-Mar-14		Hispanic	NY	Juan Guillermo	Espinosa	Cert 3.7.2014, US Naturalization - Cuba
31	Electrical Construction Consulting, Inc. (ECC)	Recert	MW	27-Jun-12	27-Jun-12	Hispanic	NY	Nellie	Torres	Cert 8.19.2004, TRIM Box 13/701, Destruction Approved

MWBE Certified Hispanic-owned Firms
2012-2014

No.	FIRM_NAME	Recert/ New	MWBE	M_DAT	W_DATE	ETHINICITY	STATE	FIRST_NAME	LAST_NAME	Proof of Ethnicity
32	Environmental Management and Design Svc. Inc. EMD	Recert	MW	18-Sep-13	18-Sep-13	Hispanic	NJ	Zenaida	Esteves	Cert 6.27.1991, TRIM Box 11/1209, 11/1213, Destruction Approved
33	Ferreira Construction Co., Inc.	Recert	M	25-Jan-13		Hispanic	NJ	Nelson	Ferreira	Birth Cert - father b. Brazil
34	Flavio Aguirre Corp.	Recert	M	29-May-12		Hispanic	NJ	Elida	Aguirre	US Naturalization - Ecuador
35	GTS Consultants, Inc.	Recert	M	18-Oct-12		Hispanic	NJ	John	Gaona	US Passport - Colombia
36	Garcia Marble and Tile Inc.	Recert	M	4-Feb-14		Hispanic	NY	Juan	Garcia	US Naturalization - Ecuador
37	Gateway Demolition Corp.	Recert	M	21-Feb-14		Hispanic	NY	Tim	Concannon	Birth Cert, mother b. Colombia, Beatriz Torres
38	GetCleaned.com Incorporated	New	MW	28-May-13	28-May-13	Hispanic	NJ	Georgine	LaSerna	Birth Cert & Passport - Peru
39	Great Pacific Securities, Inc.	New	M	24-Aug-12		Hispanic	CA	Christopher	Vinck	Birth Cert, father born in Mexico
40	Greg Beeche Logistics, LLC	New	M	25-Mar-14		Hispanic	NY	Kirk	Beeche	US Passport - Chile
41	Greg Logistics, LLC	New	M	25-Mar-14		Hispanic	NY	Kirk	Beeche	US Passport - Chile
42	Hamilton Street, Inc. d/b/a Flooring Central	Recert	M	19-Apr-12		Hispanic	NJ	Mitchell	Nogueras	cert 11.30.2005, TRIM Storage, sched for destruction
43	ICI Industries Inc.	New	M	27-Aug-13		Hispanic	NY	Timothy	Concannon	Birth Cert, mother b. Colombia
44	Ideal Interiors Group, LLC	New	MW	11-Jan-13	11-Jan-13	Hispanic	NY	Shelly	Hyndman	US Passport - Ecuador
45	In-Site Interior Design, Inc.	New	MW	21-Feb-12	21-Feb-12	Hispanic	NY	Elizabeth	Sanchez Vaughan	Birth Cert - Puerto Rico
46	Invictus LLC	Recert	M	19-Jul-13		Hispanic	NY	James	Bermudez	US Passport - Colombia
47	J. A. D. S. Children Center Inc.	Recert	MW	19-Oct-12	19-Oct-12	Hispanic	NY	ILANI	ALJENDRO	Birth Cert, father b. Puerto Rico
48	J. Ocampo Trucking, Inc.	New	M	29-Aug-12		Hispanic	NJ	Juan	Ocampo	US Passport - Colombia
49	J.G. Salas & Sons, Inc.	Recert	M	18-Sep-13		Hispanic	NJ	Gustavo	Salas	Birth Cert, Puerto Rico
50	JTG SCAFFOLDING & HOISTING LLC	New	M	11-Mar-14		Hispanic	NJ	Randy Juiio	Garciga	Birth Cert & father's US Naturalization Record - Cuba
51	K E B PEST CONTROL LLC	New	M	4-Nov-13		Hispanic	NY	Edwin	Beltran	Birth Cert & marriage cert, father b. Puerto Rico
52	KKG Construction, Inc.	New	M	15-Jan-13		Hispanic	NY	Manuel	Goncalves	US Passport - Uruguay
53	LCA Engineering LLC	New	M	21-May-13		Hispanic	NJ	Luis	Aguero	US Passport - Cuba
54	LLF Construction Services, Inc.	Recert	M	11-Jan-13		Hispanic	NY	Leonardo	Fabio	US Passport - Dominican Rep
55	Landmarks, Ltd. Technical Services	Recert	M	19-Sep-12		Hispanic	NY	Victor	Rodriquez	cert 7.21.1988, TRIM Box 14/1618, Destruction Approved
56	Lucius, LLC	New	M	18-Apr-12		Hispanic	NJ	James	Lozada	Birth Cert, parents b. Ecuador
57	M.E.P. Engineering PC	Recert	M	17-Jun-13		Hispanic	NY	German Raul	Chaikin	US Passport - Argentina
58	MFS Consulting Engineer, PLLC	Recert	M	12-Feb-14		Hispanic	NJ	Jose	Fuertes	US Passport - Puerto Rico
59	MFS Consulting Engineers, LLC	Resert	M	16-Nov-12		Hispanic	NJ	Jose	Fuertes	US Passport - Puerto Rico
60	Mendez Trucking Inc.	New	M	30-Mar-12		Hispanic	NJ	Juan	Munoz	Birth Cert & parents US passports - Ecuador
61	Mirmax Engineering, P. C.	New	M	10-Jan-12		Hispanic	NY	Jose	Moncayo	US Passport - Ecuador
62	Munoz Engineering, P.C.	New	M	3-Jun-13		Hispanic	NJ	Patricio	Munoz	US Naturalization - Ecuador
63	Nycon Supply Corp.	New	M	13-Sep-13		Hispanic	NY	Arthur	Reis	Birth Cert, mother b. Ecuador

MWBE Certified Hispanic-owned Firms
2012-2014

No.	FIRM NAME	Recert/ New	MWBE	M DAT	W DATE	ETHINICITY	STATE	FIRST NAME	LAST NAME	Proof of Ethnicity
64	Pacific Construction, LLC	New	MW	19-Apr-12	19-Apr-12	Hispanic	NJ	Martha	Fonseca	US Passport - Cuba
65	Petk, Inc.	New	M	28-May-13		Hispanic	NY	Paul	Tenorio	US Passport - Ecuador
66	Pisos Contracting Inc.	New	M	17-Jan-13		Hispanic	NY	Jerson	Diaz	US Passport - Dominican Rep
67	Renatus Construction LLC	New	MW	23-Dec-13	23-Dec-13	Hispanic	NY	Penelope	Figuereo	US Passport - Dominican Rep
68	Robinson Aerial Surveys, Inc.	New	M	22-Jan-14		Hispanic	NJ	Carlos	Medina	US Passports - Cuba & Puerto Rico
69	S. and J. Electrical Contractor, Inc.	New	M	24-Oct-13		Hispanic	NJ	Maria	Irigaray	US National - Uruguay
70	SKD Mechanical Corp.	Recert	M	5-Mar-12		Hispanic	NY	Jessenia	Abreu	cert 7.13.2005, TRIM Box 13/914, sched for Destruction
71	Samuel A. Ramirez & Co.	Recert	M	28-Sep-12		Hispanic	NY	Samuel	Ramirez	Cert 6.29.1987 Approved Destruction
72	Sanchez Industrial Design Inc.	New	M	21-Feb-14		Hispanic	WI	Gonzalo	Sanchez	US Passport - Colombia
73	Slope Electric, Inc.	New	M	22-Feb-13		Hispanic	NY	Raymond	Castro	Birth Cert, father b. Puerto Rico
74	Stanco Electrical Contractors, Inc.	Recert	M	11-Jan-13		Hispanic	NY	Ralph	Principe, Jr.	cert 8.10.2002, TRIM Box 00/5994, Approved Destruction
75	T.N.T Interiors, Inc.	Recert	MW	4-Sep-13	4-Sep-13	Hispanic	NY	Donna	Jabbour	cert 3.31.1995, Destroyed Approved
76	T.U.C.S. Cleaning Service, Inc.	Recert	M	5-Feb-14		Hispanic	NJ	Sergio	Artazu	US Passport - Uruguay
77	The Cardenas Group Inc.	New	M	23-Mar-12		Hispanic	NY	JAMES	CARDENAS	US Passport - Ecuador
78	Tony & Son, Inc.	Recert	MW	1-Oct-13	1-Oct-13	Hispanic	NJ	Maria	Vazquez	US Naturalization - Argentina
79	Top Temporaries Inc.	Recert	MW	7-Mar-12	7-Mar-12	Hispanic	NY	Sandy	Roldos	Birth Cert, father Ecuador, mother Puerto Rico
80	Toral Welding, Inc.	Recert	M	11-Sep-12		Hispanic	NJ	Rafael	Toral, Jr.	US Passport - Mexico
81	Total Electrical Construction Co., Inc.	Recert	M	15-Feb-12		Hispanic	NY	Michael	Lipari	Birth Cert, mother b. Cuba
82	Unitech Services Group, Inc.	New	M	27-Feb-13		Hispanic	NY	Jose	Reillo	Birth & Baptismal Cert - Puerto Rico
83	United Industries & Construction Corp.	Recert	M	12-Apr-13		Hispanic	NY	Antonio	Morales	Birth Cert, father b. Puerto Rico
84	Vareni Ironworks & Gates, LLC	New	M	28-Nov-12		Hispanic	NY	Cesar	Nivelo	Permanent Resident Card - Ecuador
85	Vaz Medical & Industrial Safety, Inc.	Recert	M	22-Feb-13		Hispanic	NY	Emilio	Vazquez	Honorable Discharge Record, b. Puerto Rico
86	Vega Industrial Supply Corp., Inc.	Recert	M	24-Jan-14		Hispanic	NJ	Jose	Vega	US Passport - Puerto Rico
87	Westbrook Marketing LLC	New	M	31-Oct-13		Hispanic	NY	Michael	Santos	Birth Cert - Puerto Rico
88	Wonderful Flooring and Home Improvement, Inc.	New	M	11-May-12		Hispanic	NY	Jairo	Villada	Permanent Resident Card - Colombia
89	Yarmus Engineering P.C.	New	M	25-May-12		Hispanic	NY	Andrew	Yarmus	US Passport - Cuba

Certification files dated 10 years and older have been destroyed (shaded grey)

THE PORT AUTHORITY OF NY & NJ

Guidelines for Certification of

Minority Business Enterprises (MBEs)
and
Women-owned Business Enterprises (WBEs)

Office of Business Diversity and Civil Rights
233 Park Avenue South, 4th Floor
New York, NY 10003

Office of Business Diversity and Civil Rights

MBE/WBE Certification/Recertification Review Procedures

I. Overview

The Port Authority of New York and New Jersey ("Port Authority") has a long-standing practice of making its opportunities available to as many firms as possible and has taken affirmative steps to encourage firms owned by minorities and women to seek business opportunities with the Port Authority. (See Appendix A - Board M/W/SBE Policy of June 10, 1993.) As part of this practice, the Port Authority operates a Minority Business Enterprise/Women-owned Business Enterprise ("M/WBE") Program which includes certification requirements and procedures that are designed to conform with its own internal policies. The Port Authority's Office of Business Diversity and Civil Rights ("OBDCR") is responsible for the overall administration of the Port Authority M/WBE policies including the administration of the certification program. Forms used for certification are described later and included in the attached appendices.

II. Definitions

A. Minority

"Minority" means a person who is a citizen or lawful permanent resident of the United States and who is:

1. Black (a person having origins in any of the black African racial groups not of Hispanic origin);

2. Hispanic (a person of Puerto Rican, Mexican, Dominican, Cuban, Central or South American culture or origin, regardless of race);

3. Asian and Pacific Islander (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands); or

4. Native American or Alaskan Native persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification in an Indian Tribal Entity or a Native Entity within the State of Alaska recognized by the Federal Government and listed as such in the Federal Register pursuant to 25 CFR Part 83. Such affiliation shall be evidenced by a valid identification card or other writing issued by the entity for the purpose of confirming affiliation.

B. "Minority Business Enterprise" or "MBE" means a business entity which is owned and controlled by one or more members of one or more minority groups. "Women-owned Business Enterprise" or "WBE" means a business entity which is owned and controlled by one or more women.

C. "Owned and controlled" means a business entity:

1. which is at least 51 percent owned by one or more members of minority groups or women, or in the case of a publicly held corporation, at least 51 percent of the stock of which is owned by members of one or more minority groups or women; and

2. whose management and daily business operations are controlled by one or more such individuals who are citizens or permanent resident aliens.

III. Description of Certification Application and Review Process

A. M/WBE Certification Application (Certification Application)

The "Certification Application" is a detailed informational form required by an applicant for Port Authority certification as an M/WBE firm. This application is reviewed by OBDCR. After submitting the initial application form, if deemed necessary by the Port Authority to clarify special areas of concern, an applicant may be requested to: submit additional information, appear for a personal interview, and/or be available for personal interviews at their office and work sites.

IV. Requirements for MBE/WBE Certification

A business seeking certification as an M/WBE shall cooperate with the Port Authority in supplying additional information which may be requested in order to make a determination.

A. Eligibility Requirements

1. The applicant should demonstrate by earned revenues, executed contracts or other agreements that it has engaged in commercial activity (preferably for

one year or more) in the field in which it seeks to be qualified or in which it provides services. When reviewing the application of a newly established firm, the Port Authority, in its sole discretion, may consider the commercial activity of other firms in which any or all of the minority or women owners has held an ownership interest of 51% or more.

2. Participation of MBEs and WBEs in programs implemented pursuant to the Port Authority's current MBE/WBE policy will be limited to firms having their principal place of business in either New York or New Jersey and, subject to the limitations and restrictions set forth in that policy, to firms having a principal place of business elsewhere but with a history of doing business in either New York or New Jersey. In lieu of visiting the offices of a firm located outside of the state of New York or New Jersey, the Port Authority may require that such a firm demonstrate that it has been certified as MBE or WBE or DBE by a U.S. Department of Transportation grant recipient utilizing guidelines set forth in 49 CFR Part 26 and 23.

3. The following standards are used in determining whether a firm is owned and controlled by one or more minorities or women These elements of ownership must be clear and apparent for a firm to be considered eligible as an MBE or WBE.

   (a) An eligible MBE or WBE shall be an independent business. The ownership and control by minorities or women shall be real, substantial and - continuing, and shall go beyond the pro forma ownership of the firm as reflected in its ownership documents. The minority or women owners shall enjoy the customary incidents of ownership, and shall share in the risks and profits commensurate with their ownership interests, as demonstrated by an examination of the substance rather than form of arrangements.

   The fact that a business is separately incorporated or is recognized as a separate entity for tax purposes is not necessarily sufficient to support

the conclusion that the business is an independent entity entitled to MBE or WBE certification.

In determining whether a potential MBE or WBE is an independent business, the Port Authority considers all relevant factors, including the date the business was established, the adequacy of its resources, and the degree to. which financial, equipment leasing, and other relationships with non-minority or non-woman owned firms vary from industry norms.

(b) The minority or woman owner(s) shall also possess the power to direct and to cause the direction of the management and policies of the firm, and to make the day-to-day as well.as major decisions on matters of management, policy, and operations. The firm shall not be subject to any formal or informal restrictions which limit the customary discretion of the minority or women owner(s). For example, there shall be no requirements or allowance ing corporate bylaws, operating procedures, partnership agreements, shareholder agreements or charter for cumulative voting rights, or other voting arrangements, that prevent the minority or woman owner without the cooperation or vote of any owner who is not a minority or woman, from making a business decision for the firm.

Where the firm's owner is legally required to possess a license in order for the firm to engage in the business in which the firm seeks to be qualified, the M/WBE owner shall hold the appropriate license.

The M/WBE owner(s) shall, in fact, exercise real control over the critical aspects of the business.

(c) All securities which constitute ownership and/or control of a corporation for purposes of establishing it as an M/WBE shall be held directly by minorities or women. No securities held in trust, or by any

guardian for a minor, shall be considered in determining M/WBE ownership or control of a corporation.

(d) The contribution of capital and expertise by the minority or women owners to acquire their interests in the firm shall be real and substantial.

Examples of insufficient contributions include a promise to contribute capital, a note payable tothe firm or its owners who are not minorities or women, or the mere participation by minorities or women as an employee, or in any managerial capacity, rather than owner.

4. The following are examples of circumstances which, if observed, should be carefully scrutinized by the OBDCR staff member reviewing a firm's certification application. While these circumstances will not automatically result in denial of the application, they may cast doubt on the firm's ownership and/or control by minorities and/or women and any such doubt should be resolved before certification is granted:

(a) Shareholders, members, managerial employees or others associated withthe firm who are not minorities or women appear to be disproportionately responsible for the operation of the firm.

(b) The ownership and/or control of the firm has recently changed.

(c) Owners of the firm also held an ownership interest in a firm which was previously denied certification by The Port Authority.

(d) Family members, whether related by blood or through marriage, who are not women or minorities play major roles in the operation of the business or appear to be the primary possessors of the expertise necessary to operate the firm.

(e) A prior employer of a minority or woman owner has a relationship with the firm which entails that employer's operational or financial involvement in the firm.

(f) The firm has been denied M/WBE certification by another agency participating in the Certification Application Program based on its failure to establish ownership and control by minorities or women.

The above list is not intended to be all inclusive and any circumstance which casts doubt on the ownership and/or control of an applicant firm should be addressed during the certification process.

5. M/WBE Certification Transfer Rights.

   No certified firm can transfer its rights and privileges as an eligible M/WBE to a non-Port Authority certified M/WBE firm.

6. M/WBE Recertification

   Once certified, an M/WBE shall update its submission every five (5) years by submitting a new Certification Application or M/WBE Recertification Application form (see Appendix C).

7. Name, Location or Ownership/Control Changes of Certified M/WBE Firms

   In the event of a name change, or change of business location, or change in the ownership or control of the firm, certified firms are required to submit written notification to OBDCR within 30 days of such changes. Failure to do so within the required time may result in a termination of the firms certification. Upon review of such notification, OBDCR may require the firm to submit a new Certification Application or M/WBE Recertification Application.

   A change of ownership and control of the firm will require the completion and submittal of a new certification application. A change of address may require the firm to submit an executed copy of the lease agreement for the new business location along with written notification. A business name change may be made by completing a Recertification Application or by written notification along with the submittal of a copy of the firm's amended Articles of Incorporation or Trade (Business) Name Certificate.

V Close-outs, Withdrawals, Denials, Suspensions and Decertification of an M/WBE

A. Close-outs

Close-out means that the Port Authority could not determine the eligibility of the applicant to be certified as an MBE or WBE from the information that was provided and when the applicant has not responded to requests for additional information.

When an applicant does not respond within 30 days by submitting requested information, the applicant will be notified in writing by OBDCR that the application is "closed out" and the firm will not be eligible to reapply for one (1) year. The one-year waiting period for close-out may be waived at the discretion of the Certification Manager of Office of Business Diversity and Civil Rights.

B. Withdrawals

An applicant may issue a written request to OBDCR to withdraw his/her M/WBE certification application from further consideration, if the written request is submitted prior to written notification of denial from OBDCR. An applicant will not be eligible to reapply for one (1) year once the request for withdrawal is approved.

C. Denials

OBDCR may deny the application of any firm upon its determination that the firm does not meet the definition of a Minority Business Enterprise or Women-owned Business Enterprise, set for above, and the requirements for certification also set forth above.

No certification application for the Port Authority's M/WBE Program will be accepted or evaluated in the name of the denied firm or any of its wholly-owned subsidiaries for two years following the date of the notice of denial.

D. Decertification

OBDCR may revoke the certification of any firm that it concludes no longer meets the guidelines of MBE/WBE eligibility. MBE/WBE revocation may be initiated for any of the following reasons:

- The business entity has been legally dissolved.
- The business entity's ownership and/or control by minorities or women has decreased to the extent that the business no longer meets the criteria for certification as an MBE or WBE.
- The business entity's current certification eligibility is re-examined and the business is found not to meet MBE/WBE certification criteria.
- Misrepresentation of the firm's ownership or control.
- It is determined that the business entity made false statements or misrepresentations on its application for MBE or WBE certification.
- Failure to maintain a regular, on-site presence and/or to exercise day-to-day financial and operational management, control and oversight of the work of a contract which the business entity has obtained either through negotiation or through set-aside bidding pursuant to The Port Authority's M/WBE Program.
- Failure to operate independently and to provide a commercially useful function on a subcontract which the business entity has been awarded by a firm which seeks to credit that subcontract toward the good faith M/WBE participation goals contained in its contract with the Port Authority. Conduct which will be closely scrutinized in this context includes but is not limited to, the following:
- subcontracting beyond industry norms;
- rental or lease of equipment from the prime contractor or from a third party beyond industry norms;
- purchase of equpment from the prime contractor but only for the duration of the contract; and
- hiring employees from or sharing employees with the prime contractor.

An MBE/WBE firm performs a commercially useful function when it it responsible for execution of a distinct element of the work of the contract and is carrying out its responsibilities by actually performing, managing and supervising the work involved. The MBE/WBE should have the skill and expertise to perform work for which it is being utilized. The MBE/WBE must be responsible for the purchase of, quality of, and payment for materials used to perform its work under the contract.

No certification application for the Port Authority's M/WBE Program, will be accepted or evaluated in the name of the decertified firm or any of its wholly-owned subsidiaries for two (2) years following the date of the original notice of decertification.

E. Suspension of M/WBE Certification Pending Decertification

The decision to revoke a firm's M/WBE certification will take effect 30 days following the date of OBDCR's notice of decertification unless the firm has appealed that decision. Immediate as of the date of OBDCR's notice of decertification, the firm's M/WBE certification shall be suspended. The suspension shall be in effect until the above reference 30 day period has expired or, if an appeal has been requested, until such appeal has been resolved. However, in no event shall such suspension exceed 60 days.

During the period of suspension, the firm will be ineligible to participate as an M/WBE in any program implemented by the Port Authority for the benefit of M/WBEs. Such programs include but are not limited to price preferences and set-aside bidding. Furthermore, the suspended firm's name will not appear on the list of certified M/WBE subcontractors prepared by the Port Authority's Engineering Department for use by Port Authority contractors seeking to achieve the M/WBE good faith participation goals contained in their contracts.

OBDCR will maintain the necessary database to administer the aforementioned provisions.

VI. Appeals of Certification Revocation or Denial

Businesses aggrieved by the Port Authority's determination may appeal in accordance with procedures set forth below.

A. Filing and Hearing Procedures

Firms are advised in writing of the reason(s) for the denial or revocation of certification and of their right to an appeal. The appeal shall be in writing and shall be forwarded to OBDCR no later than 30 days after the date of the notification of denial or revocation.

Upon the timely filing of a request for an appeal, the Port Authority shall convene a hearing within a reasonable time at which the firm is afforded an opportunity to be heard. The Hearing Officer shall be the OBDCR's General Manager or his/her desginee. A Port Authority attorney may be present at the request of the Hearing Officer. The OBDCR staff member who made the initial decision to deny or to revoke certification will present the case to the Hearing Officer. In cases where technical expertise is necessary and/or appropriate, the Hearing Officer may request the presence of an engineer or other expert to participate as a consultant.

The firm has the right to be represented by counsel and the right to present testimony and other evidence.

The firm may elect to present information and arguments in writing, without going to a hearing.

B. Determination

After considering all the relevant information, the Hearing Officer shall make a determination and shall inform the firm in writing filing the appeal of its decision and reasons therefore.

Appendix A

Port Authority M/WBE Program Board Policy

Port Authority Policy for Revised Minority and Woman-owned Business Enterprise and Small Business Enterprise Programs

The Port Authority has a longstanding commitment to maximize business opportunities available to :minorities. women and small entrepreneurs in the New York/New Jersey region. A reaffirmation of this commitment is particularly desirable in light of the findings of the Port Authority staff entitled "A Study of Disparity and Utilization of Minority and Women-owned businessis by the Port Authority" which identified a disparity between Port Authority availability and utilization of minorities and women in most porcurement categories.

In order to facilitate the expansion of opportunities for minorities. women and small entrepreneurs, the revised Minority, Women and Small Business Enterprise (M/W/SBE) programs set forth in the attached statement (policy) are proposed. These programs will encourage such firms to enter the mainstream of business participation and improve their competitive positions.

In addition, a delegation of authority to the Executive Director to authorize the award of contracts and contracts resulting from requests for proposals included the programs authorized in the attached policy in amounts not in excess of $500,000 is proposed. The Executive Director shall periodically report to the Board on all contracts authorized under these programs whether awarded pursuant to this delegation or otherwise

Pursuant to the foregoing report presented by staff, the following resolution was adopted with Commissioners Goldberg. Henderson, Lronr, McGoldrick, O'Neill and Paterson voting in favor; none against:

RESOLVED, that the Board hereby accepts and adopts the findings and conclusions of a staff study of disparity between Port Authority availability and utilization of minority and women-owned businesses set forth in a "A Study of Disparity And Utilization Of Minority And Women Owned Businesses By The Port Authority" and accepts the findings of disparity between the availability and utilization of certain ethnic, racial and gender groups as reported by the states of New York and New Jersey and the City of New York; and it is further

RESOLVED, that the Board hereby adopts the "Port Authority Policy for Revised Minority, Women and Small Business Enterprise (M/W/SBE) Programs" (attached hereto). to maximize business opportunities available to 'minorities. women and small entrepreneurs in the New York/New Jersey region, consisting of a menu of programs to be implemented where the findings. respectively, justify the use of such programs as a narrowly tailored remedy to correct the under utilization of racial, ethnic and gender protected classes found for major procurement categories; and it is further

(Board – 6/10/93) **EXECUTIVE GUIDE** (111)

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to award construction and non-construction contracts including contracts resulting from requests for proposals, pursuant to the programs authorized in this policy. in an amount not to exceed $500.000; and it is further

RESOLVED, that the Executive Director shall periodically report to the Board on all contracts authorized under these programs whether awarded pursuant to this delegation or otherwise.

Application - Denied

List of denied certifications

Date Run: 3/16/2015 10:15:18 AM

Business Name	Vendor ID	Certification Type	Ethnicity
J. D'Annunzio & Sons, Inc.	20210060	MBE	Hispanic/Latino

THE PORT AUTHORITY OF NY & NJ

CERTIFIED MAIL
RETURNED RECEIPT REQUESTED

February 18, 2014

Mr. Michael D'Annunzio
D'Annunzio & Sons, Inc.
136 Central Avenue
Clark, NJ 07066

Re: Denial of Minority Business Enterprise (MBE) Certification

Dear Mr. D'Annunzio:

The Port Authority of NY & NJ has completed its review of your application for certification. Based upon an examination of the documentation submitted and information presented, the Office of Business Diversity and Civil Rights has concluded that D'Annunzio & Sons, Inc. (Applicant) does not meet the eligibility criteria for certification as a Minority Business Enterprise (MBE). The firm is therefore ineligible to participate in the Port Authority's Minority and Women-owned Business Enterprise (MWBE) program.

The specific reasons for the determination are as follows:

1. The corporation has failed to establish that the majority shareholders are of Hispanic origin.

   More specifically, the application and additional information provided does not demonstrate the Hispanic origin of its owners/majority shareholders because the evidence shows that the majority shareholders' grandfather - on whom the Applicant relies to demonstrate the inclusion of its owners/majority shareholders in a minority group - was not Hispanic, but was Italian born in Brazil.

   Our guidelines define a Hispanic minority group member as a United States citizen or permanent resident alien who is a Hispanic person of Mexican, Puerto Rican, Dominican, Cuban, Central or South American origin, regardless of race. "Origin" is used to identify the source or roots of the parent(s)' ethnicity as Hispanic.

   By your application, dated November 28, 2012, you provided that three persons with ownership interests in D'Annunzio & Sons, Inc., specifically, James D'Annunzio, Michael D'Annunzio, and Stephen D'Annunzio, were Hispanic by choosing Ethnicity Group Code 02a for each. In support of each of your claimed Hispanic origins, as United States citizens, you submitted a copy of the birth certificate of Giacinto D'Annunzio (hereinafter Giacinto), who was born in Brazil and was the grandfather of the three aforementioned owners. The translation of Giacinto's birth certificate states in pertinent part that Giacinto was born to "Jose Danuncio" and "Luiza Molina" who were "Italian residents of the town."

We find that Giacinto's birth certificate does not demonstrate his Hispanic origin or the origin of the Applicant's owners/majority shareholders. The birth certificate identifies Giacinto's parents as Italian, and as such, his origin and the origin of his descendants, herein identified, are Italian.

In support of our finding, by letter dated December 5, 2013, owner/shareholder Michael D'Annunzio wrote: "[...] The slight differences in spelling [of Giacinto's name] come from the Portuguese language and clerical errors in Brazil." This suggests that Giacinto was in fact born Giacinto D'Annunzio but for a Portuguese translation of his name and clerical error. The Applicant presented no documentation of a name change. Additionally, as evidence or proof that the Hispanic community regards each owner as Hispanic American, you provided information regarding the Applicant's investment in a Brazilian company and a nomination letter of Michael's sister (who is not listed as an owner) in a Northrop Grumman publication entitled 2013 Women of Color. Neither proffers any evidence as to each owner's regard in the Hispanic community. Hispanic Owner Affidavits and Annex Hispanic Owner Affidavits provided as further attestation of the owners/shareholders identities as Hispanics and the aforementioned evidence provided by you in support of your eligibility to be certified as a Hispanic MBE is insufficient.

We conclude that the birth certificate permits a reasonable inference, that Giacinto's parents were not Hispanics, but Italians that were residing in Brazil when he was born. Accordingly, it is the Port Authority's determination that D'Annunzio & Sons, Inc. does not meet the eligibility criteria for MBE certification.

Should you wish to appeal this decision, you must submit a written request for an appeal hearing within thirty (30) days from the date of this letter. If you do not request an appeal hearing before March 18, 2014, this decision shall be deemed final. Your appeal of this letter must contain information rebutting our determination and you must provide any supporting documentation relevant to the rebuttal. Your appeal-hearing request should be sent to: Traci Wheelwright, Certification Manager, The Port Authority of NY & NJ, Office of Business Diversity and Civil Rights, 233 Park Avenue South, 4th Floor, New York, NY 10003.

Counsel at its discretion may represent D'Annunzio & Sons, Inc. Should you choose to be represented by counsel, please indicate such in the request for an appeal hearing.

A firm that has been denied certification as a Minority Business Enterprise cannot reapply for certification until two (2) years from the date of this notice. Therefore, D'Annunzio & Sons, Inc. will be ineligible to apply for certification until February 18, 2016.

Sincerely,

Danny Washington
Certification Analyst

cc: L. Green, I. Perich,

Enclosed: "Guidelines for Certification of Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs)"