



Subcontractor Addition and Substitution

Policy and Procedure

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EFFECTIVE DATE: May 9, 2022

Sub-contractor Addition and Substitution Policy and Procedure

Purpose

The purpose of this Policy is to state the policies and practices which all City departments must follow to obtain the previous written Board of Control consent required for a City contractor to add a subcontractor, or to substitute one subcontractor for another subcontractor, under a City contract.

Policy and Procedure

Each subcontractor proposed for a City contract, whether for a purchase, public improvement, or professional services, must be approved by the Board of Control (the “BOC”) *prior* to the commencement of work and or services performed by the subcontractor. Subcontractor approval will be considered by the BOC upon recommendation of the department Director. A subcontractor identified as a certified Cleveland-Area Small Business (“CSB”), a Minority Business Enterprise (“MBE”), or a Female Business Enterprise (“FBE”) (each generically also a “certified sub-contractor”) proposed for a contract, whether as an additional or substitute subcontractor, must also be verified as such by the Office of Equal Opportunity (“OEO”).

Note: The City assumes no obligation to pay and will not pay, a contractor for any work and or services performed by a sub-contractor on the contract prior to Board of Control approval of that sub-contractor.

Except upon occurrence of an emergency requiring immediate use of a subcontractor to prevent an interruption of public service or endangerment of public health, safety or welfare as declared and determined solely by the Director, the prime contractor is responsible for submitting all required supporting documentation to the contracting department Director, through the designated Project Manager for the contract (the “Project Manager”), if any, no less than three (3) weeks in advance of the date the additional or substitute subcontractor is needed on the project, to allow time for internal and BOC approvals without delay or interruption of the project.

Note: The Director will not grant any City contractor additional time to meet project deadlines, and will not authorize or pay additional compensation or delay damages of any kind arising from the contractor’s inability to add or substitute a subcontractor because the contractor failed to submit the approval request and supporting documentation at least 3 (three) weeks in advance of the date the additional or substitute sub-contractor is needed.

The contracting department Project Manager, if any, for a particular contract will serve, on behalf of the department Director, as the primary contact for the prime contractor. The contracting department Director is responsible for assessing the completeness and sufficiency of the supporting documentation received from the prime contractor and subcontractor, for timely processing of the documentation through the appropriate internal department review(s) and approval(s) and forwarding to the Mayor's Office of Equal Opportunity ("OEO"), if required, for evaluation and approval prior to any placement on the Board of Control agenda and for submitting the appropriate Board of Control resolution for approval.

Substitution of Certified Subcontractors. A subcontractor identified as a certified Cleveland-Area Small Business, Minority Business Enterprise, or Female Business Enterprise (a "certified sub-contractor") proposed for a contract must also be validated as such by the Mayor's Office of Equal Opportunity. Justification is required for substitution for a certified sub-contractor.

In requesting a certified subcontractor substitution approval, a contractor shall make a good-faith effort to fulfill its original certified subcontractor utilization percentage for the contract (Section 187.13 C.O.) To document this good-faith effort, the contractor will submit complete, revised OEO Schedules to the contracting department Director, through the Project Manager, with its request for City approval.

Note : OEO shall evaluate each subcontractor addition and substitution for increased CSB, MBE, or FBE participation even if the original contract had no certified sub-contractor participation.

Federally Funded Projects. For projects funded directly or indirectly by the federal government where the contracting department is responsible for monitoring Disadvantaged Business Enterprise ("DBE") participation, the department's monitoring unit shall perform the role otherwise performed by OEO. The supporting documentation for the evaluation and approval of an additional or substitute DBE subcontractor shall be forwarded to OEO for information purposes. The department Director shall also submit any necessary supporting documentation with its request for Board of Control approval.

Monitoring and Enforcement. The Project Manager shall, under the direction of the department Director, verify compliance with approved subcontractor utilization percentages by thoroughly reviewing the contractor's documentation including, but not limited to, monthly payment reports and by visiting the worksite with a frequency consistent with guidelines established by OEO and/or the contract terms.

The Project Manager will coordinate all monitoring with the Office of Equal Opportunity, and shall maintain copies of all necessary monitoring and verification records. These records shall be available for periodic audit by the Office of Equal Opportunity.

Penalties for Non-Compliance. The Project Manager will document and report any findings of non-compliance with this Policy by a contractor to the contracting department Director. The department Director will then submit a copy of the findings, and a recommendation for action, to the Director of Law. Should the findings of non-compliance affect a Certified Subcontractor, the department Director will also submit a copy of the findings to the Director of the Office of Equal Opportunity for determination of penalties under C.O. Chapter 187 and/or under the contract terms.