

REQUEST FOR CHANGE OF COMPLIANCE PLAN FORM INSTRUCTIONS – MAY 2009

What is This Form For?

This “Request for Change” form is used by a consultant/contractor to request a Compliance Plan change after contract award. The consultant/contractor may wish to add a subcontractor, delete a subcontractor, or change the amount of work an existing subcontractor will do. Work affected by this form cannot begin until this form has been submitted and approved by SMBR; all Requests for Change must receive written approval from the Director of the Small and Minority Business Resources Department (SMBR). Only the SMBR Director or their designee has the authority to approve a change.

What is This Form *Not* For?

This form is not for changes to a current subcontractor’s contract amount if the change is *both* less than 5% of the current subcontractor’s contract amount *and* less than \$25,000. A change this minor will be documented instead on the subcontractor participation form submitted with the next application for payment. This provision is intended to accommodate the typical margin of error in quantities that is inherent in construction projects. This provision is *not* intended to allow contractors to self-perform work intended for subcontractors or to unlawfully substitute subcontractors.

Submission and Evaluation of Requests

This “Request for Change” form is submitted for changes at every level of subcontracting. The following conditions constitute acceptable reasons for changes:

- (1) Unavailability of subcontractor/consultant after receipt of reasonable notice to proceed;
- (2) Failure to perform the scope(s) of work;
- (3) Financial incapacity;
- (4) Failure to honor bid or proposal price within a reasonable period of time after original submittal;
- (5) Mistake of fact or law about the scope(s) of work where a reasonable price cannot be agreed upon;
- (6) Subcontractor/consultant failure to meet bonding, insurance, or licensing requirements per the solicitation; or
- (7) Withdrawal of bid or proposal by subcontractor/consultant.

This request must state specific reasons for the proposed change. For changes deleting certified subcontractors, a statement from the MBE/WBE stating why it cannot perform on the project may be submitted to support the request; the facts supporting the request must not have been known nor reasonably should have been known by the consultant/contractor and proposed subcontractor prior to the submission of the Compliance Plan. Where the reason is a valid mistake or disagreement on the scope(s) of work, the request must document all efforts made by the parties to reach an agreement for a reasonable price for the corrected scope(s) of work.

Instructions

Page One must be completed. Page Two is for City staff only.

Page One: Prime Contractor/Consultant, Project Information, Change Information, and Signature

Complete this page with your contact and project information, and information regarding whether you are requesting a change to a primary subcontractor, subconsultant, or supplier. You may add as many copies of this page, as necessary. An authorized agent must sign and print their name at the bottom.

Good Faith Efforts on Additions and Deletions of Subcontractors/Subconsultants

An addition or deletion will:

- Meet project goals;
- Maintain/improve on project goals; or

- Not meet goals but show Good Faith Effort to meet goals.

A consultant/contractor may meet, maintain, or improve on goals by, for example,

- Substituting a like-kind certified MBE/WBE subcontractor/subconsultant from which a quotation was received at bid time; or
- If a satisfactory agreement cannot be made with such subcontractor/subconsultant, by substituting with another certified MBE/WBE.

“Like-kind” means, for purposes of substitutions of previously designated MBEs and/or WBEs, an MBE for an MBE, if MBE and WBE goals are used in a solicitation; a member of a racial group for a member of the same racial group, if racial subgoals are used in the solicitation; or a WBE for a WBE.

A consultant/contractor may show Good Faith Effort to meet, maintain, or improve on goals by, for example,

- Soliciting MBEs/WBEs through reasonable and available means;
- Providing interested MBEs/WBEs with project information; or
- Negotiating in good faith with interested MBEs/WBEs.

See Section 2-9A-21, 2-9B-21, 2-9C-21, or 2-9D-21 of the City Code for a full description of Good Faith Efforts. A consultant/contractor that makes a Good Faith Effort to the satisfaction of the SMBR Director may add a non-certified subcontractor/subconsultant.

Letter of Intent

A bidder is required to submit a signed and notarized Letter of Intent (LOI) from each MBE and WBE that is identified on the “Request for Change” Form to be added onto the contract. The signed and notarized LOI must be attached with the Request for Change of Compliance Plan Form submitted to SMBR.