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MWBE Compliance

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Overview of Presentation



- I. The Contract Compliance Team**
- II. City's Minority, Women & Small Business Enterprise Program**
- III. Pre-Award Good Faith Efforts Requirements**
- IV. OBO's Assessment of Pre-Award Efforts**
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- VI. OBO's Assessment of Post-Award Efforts**





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Meet the Contract Compliance Team





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City's Minority, Women and Small Business Enterprise Program



City of Houston's Minority, Women and Small Business Enterprise Program



- Governed by City's Code of Ordinances, Chapter 15, Article V – Minority, Women and Small Business Enterprises (MWSBE).
- Express purpose is to promote the growth and success of MWSBEs.
- City establishes goals on contracts as a way to increase participation of MWSBEs:
 - *Goal-Oriented Contracts*
 - *Regulated Contracts*
- Contract goals are based on divisibility of the work required under the contract and the availability of certified MWSBEs to perform the work.
- Goals are not quotas. The standard for meeting goals is demonstrating and documenting good faith efforts.



Minority & Women Business Enterprise Goals



Citywide Annual Aspirational Goals

- **Construction Contracts** – related to construction-related projects, and have two individual goals. **MWBE goal = 34%** (23% MBE, 11% WBE)
- **Professional Services contracts**– require a professional license (e.g. Architect, Engineer, Attorney, Accountant, Consultant, etc.). **MWBE goal = 24%**
- **Purchasing contracts**– provide the supply of goods and non-professional services. **MWBE goal = 11%**

Contract-Specific/Categorical Goals

- Individual projects often have contract-specific and/or categorical goals assigned based on the availability of MWBEs and divisibility of the work.





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Counting MWBE Goal Credit



Achievement of the MWBE Goals



- **Construction Projects**
 - MBE and WBE goals are **separate subcontracting** goals to be met individually.
 - Any **excess** of the MBE or WBE Goal **cannot** be used to meet a deficient MBE or WBE goal
 - **Only 4% SBE** can be used to meet either the MBE and/or WBE Goal, but both cannot get 4% each.
 - Native-American MBE certified firms cannot be used to meet MBE goals – they can be used as SBEs up to 4%
- **Professional Services/Goods & Non-Professional Services Projects**
 - Combined MWBE goal
 - SBEs cannot be used



Calculating Participation – Construction Project 1

Goals: 13% MBE and 8% WBE Advertised Goals

These are separate goals to be met individually!

Bidder's Proposed Participation Plan:

- **SBE: 6%** 4% of SBE may be used to meet the MBE and/or WBE goal.
- **MBE: 9%** + 4% (from SBE) = 13%
- **WBE: 8%** + 13% = 21%

Does this plan meet the Goals?

YES!!



Calculating Participation – Construction Project 2

Goals: 11% MBE and 8% WBE Advertised Goals

These are separate goals to be met individually!

Bidder's Proposed Participation Plan:

- **SBE: 12%** **ONLY** 4% of SBE may be used to meet the MBE and/or WBE goal. **NOT 4% FOR EACH!**
- **MBE: 6%** The remainder SBE percentage **CANNOT** be used for MBE goal calculation.
- **WBE: 4%** + 4% (from SBE) = 8%
Only the WBE Goal is met.

Does this plan meet the Goals?

NO!!



Calculating Participation – PS&P Project 1

Goals: 18% MWBE Advertised Goal

Vendor's Proposed Participation Plan:

- **SBE: 10%** **SBE may not be used on non-construction projects.**
- **MBE: 5%**
- **WBE: 3%** **MWBE Credit = 8%**

Does this plan meet the Goal?

NO!!



Tips to Increase MWBE Goal Attainment



- Establish relationships with MWSBEs in advance
- Subdivide the work
- Use the City of Houston MWSBE Directory to find firms
- Directly solicit to MWSBEs in a timely manner
- Provide relevant bidding/contract information to MWSBE Firms
- Advertise opportunities
- Offer assistance to MWSBEs
- Go back to subcontractors that you've done business with in the past and ask them to bid
- If no one responds to your email blasts, pick up the phone and call to ask if they are going to bid
- Review CIP in advance and discuss projects and opportunities with MWSBEs





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Pre-Award Good Faith Efforts



What are Good Faith Efforts?



- If the submitted MWBE participation plan is less than the advertised contract goal(s), the vendor must submit documentation illustrating their good faith efforts
- Good Faith Efforts is the standard of review applied to determine a vendor's MWBE goal compliance.
- Good Faith Efforts are steps taken to achieve Advertised Goal(s).
- Good Faith Efforts must be demonstrated by the vendor **PRIOR** to the award.
- If vendor anticipates it cannot or will not meet the advertised goal prior to the award, a Good Faith Effort demonstration is **REQUIRED** prior to contract award.
- Good Faith Efforts Policy can be found on OBO's website at www.houstontx.gov/obo.



OBO's Assessment



- GFEs are evaluated on a case-by-case basis in making a determination whether a vendor is in compliance with the City's Good Faith Efforts Policy for goal attainment.
- As per Policy, efforts are those that one could reasonably expect a vendor to accomplish if the vendor were actively and aggressively attempting to obtain MWSBE participation to meet the contract goals.
- OBO reviews all documents provided by the vendor with bid submission and relevant information from Contracting Departments in making a GFE determination.
- Vendors will be contacted by OBO only for clarification purposes, when necessary.



Good Faith Efforts Policy: Pre-Award

Elements include:

- Attendance at pre-bid meeting
- Outreach and Advertisement
- Access and Point-of-Contact
- Notice and Solicitation
- Contracts and Negotiations
- Work Designations and Explanations
- New Efforts

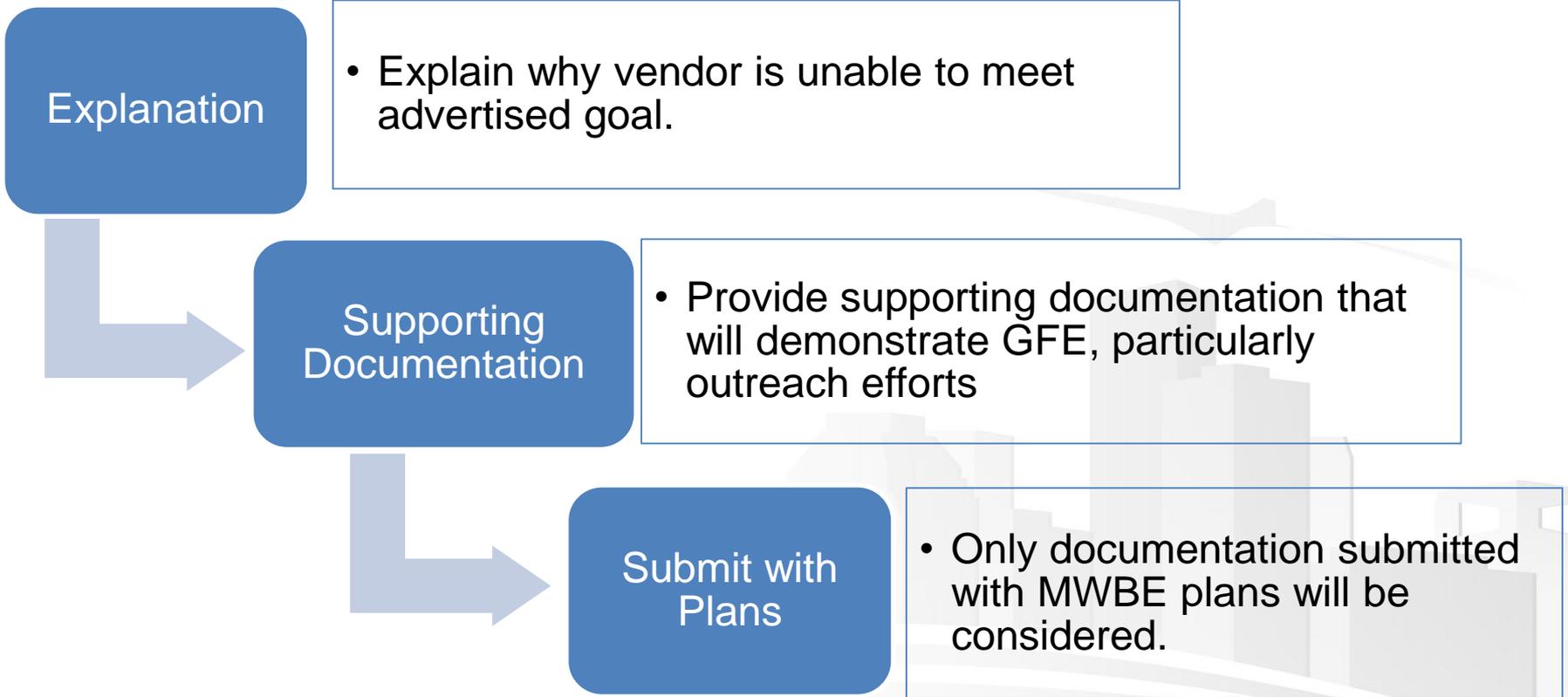


This is **NOT** an exhaustive list.

City may consider other factors or types of relevant efforts in appropriate cases, as documented by contractor.



Requirements for GFE Submission to City





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Case Studies



Case Study 1- Approved Construction Good Faith Efforts



A **Building Renovation** project with a 28.00% advertised MWBE Goal {**18.00 % MBE & 10.00 % WBE**}

- Contractor's Participation Plan: 32.00% MWBE { **17.90% MBE** , **1.10% WBE** , & **13.00% SBE**}
- Contractor failed to meet the MBE goal by .10%. Contractor also failed to meet the **WBE** Goal by **8.90 %**. Contractor could use **SBE** % toward meeting the **MBE** and **WBE** goal up to 4%:

.10% SBE added to the 17.90% MBE = 18.00% MBE

3.90% SBE added to the 1.10% WBE = 5.00% WBE

18.00% MBE and 5.00% WBE = **23.00% MWBE**

- **Contractor provided the following documentation for evaluation:**

- Documents 470, 471 & 472

- Documents provided the following information:

- MWBEs contacted and contact details
- Certification Type
- Identified several work elements within the Scope of Work
- MWBE's work capabilities & relevant scope of work
- Stated bid invitation was e-blasted to 800 construction firms which included MWSBE certified subcontractors.
- Dates of contact for fax and email notification, and telephone call follow ups
- Results of contact with MWBEs
- Confirmation of publication in the Houston Chronicle, IsqFt, Construction Connect, and CMD



Case Study 1 – Approved Good Faith Efforts



Contract Compliance- Department Services evaluated documentation and verified details

Vendor demonstrated Good Faith Efforts by providing documentation, which are as follows:

- Identified and designated portions of the work to be performed by MWBEs to increase the likelihood of meeting the contract goals by encouraging bids in various scopes of work.
- Notified a reasonable number of certified MWBEs.
- Followed up to determine if they were interested in submitting a bid.
- Solicited MWBEs within a reasonable amount of time by providing written notification to MWBEs more than 7 business days before bid submission.
- Provided documentation of advertisement
- Attended pre-bid meeting



Case Study 2 – Denied Construction Good Faith Efforts

Construction of a **54-in water transmission line, 16-in water line & 30-in wastewater line**. This project has an advertised **MWBE Goal of 19% (12% MBE, 7% WBE)**. Vendor provided the following documentation for evaluation:

- Document 00470-Participation Plan: **1.80% MBE, 0.16% WBE and 0.30% SBE= Total: 2.26%**
- Document 00471- Good Faith Efforts: **No content. Bidder only signed and dated the form.**
- Document 00472- Good Faith Efforts
 - *Justification:* Bidder indicated that they will be self-performing most scopes of work. Bidder stated the MBE, WBE, and SBE quotes received for the remaining scopes did not meet the contract goals. Bidder further stated if awarded the project, they will continue to search for MBE/WBE/SBE subcontractors and vendors to perform larger scopes of work.
 - *Good Faith Efforts Section:* Bidder indicated that the scopes of work were subdivided by NAICS code to increase scopes and participation. Bidder indicated that large scopes of work were evaluated for joint venture and possible partnership as well as multiple participation from suppliers and subcontractors. Bidder indicated that a request for quote was posted to Craigslist and sent via fax/email.

Case Study 2 – Denied Construction Good Faith Efforts



Contract Compliance-Department Services evaluated documentation and verified details provided by the bidder

Bidder did not demonstrate a **genuine effort** to comply with the City's Good Faith Efforts Policy:

- Bidder's MWSBE plan totaling 2.26% (1.80% MBE, 0.16% WBE and 0.31% SBE) did not demonstrate a genuine effort
- Bidder did not attend the pre-bid meeting to connect with potential MWSBE subcontractors
- Bidder did not submit any additional information illustrating outreach to certified firms and follow-up with those firms in an effort to meet the goals
- Bidder indicated that they would self-perform a majority of the work despite the City identifying 19% of the work for subcontracting



Case Study 3- Approved PS/Goods/Non-PS Good Faith Efforts



A contract to **purchase aggregate products such as sand, washed gravel and stabilized cement**. Advertised with a **11% MWBE** goal. Vendor's Submitted Participation Plan: **5% MBE**.

- **Contractor provided the following documentation for evaluation:**

- Letter on company letterhead outlining explanation of decreased MWBE participation
- Documents/Information provided:
 - Identified several work elements within the Scope of Work for subcontracting
 - Emails that were sent to certified firms to demonstrate outreach
 - Dates of contact for fax and email notification, and telephone call follow ups
 - Results of all contact with MWBEs
 - Signed letters of intent for certified firms listed on participation plan



- **OBO reviewed the scope of work, evaluated documentation and verified details provided by the vendor.**

- 5% Plan approved because vendor demonstrated good faith efforts.



Case Study 4 – Denied PS/Goods/Non-Professional Services Good Faith Efforts

A **John Deere Construction Equipment and Replacement parts** project with a **11%** MWBE Advertised Contract Goal.

- **Vendor provided the following documentation for evaluation:**
 - MWBE participation plan listing a certified firm to provide office supplies for 3.00% of the contract value



Case Study 4– Denied PS/Goods/Non-Professional Services Good Faith Efforts



Contract Compliance-Department Services reviewed the scope of work, evaluated documentation and verified details provided by the vendor.



- Vendor plan of 3.00% MWBE participation for office supplies on a parts and equipment contract is not a commercially useful function
- MWBE must perform work that is required in the contract
- An MWBE performs a commercially useful function when it is responsible for a discrete task or group of tasks required in the contract using its own forces or by actively supervising on-site the execution of tasks. An MWBE has to be certified in the NAICS code in which they are performing.



Denied Good Faith Efforts



Denied Good Faith Efforts usually consist of:

- Self performing
- Little or no evidence of Good Faith Efforts
- No supporting documents
- CUF issues
- Using firms not certified



Appeals Process for GFE Denials



- The Vendor has an opportunity to appeal a denial decision to OBO within **three (3) business** days after notification by OBO of the denial.
- If the decision to deny is upheld by the OBO Director or designee, the Bidder will have an opportunity to appeal to the City's Legal Department.
- The request for an appeal to the OBO Director's decision must be made in writing and sent via email to OBO at director.obo@houstontx.gov. The written appeal request must be received within **three (3) business days** of the date of the OBO's Director's decision letter.
- The Legal Department's written decision represents the City's final determination.





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Post-Award Good Faith Efforts



Post-Award Good Faith Efforts



Good Faith Efforts are steps taken to achieve a Contract Goal which, by their scope, intensity and usefulness, demonstrates ...**the contractor's responsibility to put forth measures to meet or exceed the Contract Goal throughout the duration of the contract.**

- If the Prime fails to achieve the MWBE goal or fails to use all of the approved goal credit subcontractors on their Participation Plan, the Prime must demonstrate that their failure to do so was based on circumstances that they could not reasonably control.
- The City's written *Good Faith Efforts Policy* outlines those factors that will be considered in the assessment of good faith efforts **at the end of the contract.**



Documenting Good Faith Efforts



- Submit in writing all efforts made to comply with the goal.
- Execute and submit required subcontracting agreements outlining terms of engagement.
- Keep a log of efforts made throughout the course of contract to meet goal.
- Contact OBO for assistance if you are experiencing challenges meeting the goal.
- When possible, provide Sub-Consultants/Subcontractors with advance notice when they will be needed for project.
- Document opportunities that exist with all additional work and your efforts to solicit MWBEs.



Documenting Good Faith Efforts Cont'd.



- Designate an MWBE liaison officer.
- Provide up-to-date MWBE Utilization Schedules and promptly report payments to the B2G Now system.
- Genuinely attempt to resolve disputes with MWBEs. Leverage City's mediation process.
- Utilize all MWBEs on the approved participation plan unless a deviation is approved.
- Request a deviation when needed and make good faith efforts to replace MWBE firms with other MWBE firms.



Documenting Good Faith Efforts Cont'd.



- Promptly respond to inquiries from the City regarding MWBE participation for goal credit.
- When performing outreach to MWBEs, document MWBEs you contact and their responses.
- Ask your MWBEs whether they will execute their work utilizing other Sub-Consultants/Subcontractors/suppliers.
- If Sub-Consultants/Subcontractors will not meet requirement for full credit, find out up front how much credit their work will result in.
- Make sure MWBE firms are performing a **Commercially Useful Function.**



Documenting Good Faith Efforts Cont'd.



- Provide information that is factually accurate and free of material misrepresentation.
- Attend all meetings and mediations requested by the City.
- Notify OBO of the effect of scope of work changes on Participation Plan.

*****City may consider other factors or types of relevant efforts in appropriate cases, as documented by Contractor.***





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Commercially Useful Function (CUF): A core element of goal credit



Commercially Useful Function



An MWBE performs a commercially useful function (CUF) when it is responsible for a discrete task or group of tasks required in the contract using its own forces or by actively supervising on-site the execution of tasks. An MWBE has to be certified in the NAICS code in which they are performing.

- Prime Contractors only get goal credit when an MWBE performs a commercially useful function.
- Do not confuse commercially useful function with certification.
- A CUF audit seeks to determine the appropriate credit for work performed by listed MWBE as well as reduce fraud.



Goal Credit for Sub-Consultants/Subcontractors



Full credit

- MWBEs that perform work they are certified for by the City; and
- MWBEs that perform work with their own staff or subcontract portions of their work to other MWBEs.

Partial credit

- Partial credit will equal money retained by the goal credit Sub-consultants/subcontractors.
- MWBEs who use lower tiered non-certified firms to do the work will result in a reduction of credit to Prime.
- Prime will only receive credit for money retained by MWBE.

No Credit

- Firms not certified with the City of Houston.
- MWBEs working outside of their certification NAICS Code.



Commercially Useful Function - Quiz



- Goal credit MWBE firm hires a non-MWBE subcontractor to perform all of the work on a contract
 - ✓ **NO CREDIT**
- Goal credit MWBE firm is hired to supply concrete and is listed in the directory as a concrete contractor
 - ✓ **NO CREDIT**
- Goal credit MWBE trucking firm hires non-MWBE trucking company to assist in trucking matching 1 truck for each truck the MWBE owns
 - ✓ **FULL CREDIT**



Commercially Useful Function - Suppliers



- Supplier participation cannot count for more than 50% of the participation plan.
- A MWBE Supplier's participation will be counted towards the MWBE goals if all of the following criteria are met. MWBE Supplier must:
 - negotiate price;
 - determine quality and quantity;
 - order the materials;
 - show that the invoice is in the certified firm's name;
 - pay for the material itself;
 - control delivery; and
 - be certified to provide the supplies in the appropriate NAICS code



Commercially Useful Function - Trucking



- The following criteria must be met to be considered a commercially useful function:
 - The MWBE must be responsible for the management and supervision of the entire trucking operation and
 - The MWBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- The MWBE receives credit for the total value of the transportation services it provides (manages and supervises)
- The MWBE may lease trucks from another MWBE firm, including an owner-operator who is certified as a MWBE.





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MWBE Utilization Schedules & Participation Plan Deviations



MWBE Utilization Schedule



- MWBE Utilization Schedule is a forecast of the Prime's use of certified MWBE firms to meet the MWBE goal on projects.
 - The schedule must be submitted before contractor starts work and upon request.
 - An updated copy of the Utilization Schedule is also required when responding to a "Not Meeting the Goal" letter.
- Utilization Schedules for Work Orders -Challenges
 - Scope of work not fully defined
 - Multiple contracts awarded for the same type of service
 - Time constraints/emergency
 - Work orders may not be consistent
 - ****Documentation of your efforts is important to final determination of whether you made good faith efforts



MWBE Utilization Schedule



MWSDBE Utilization Schedule					
	Status as of: Feb-17 Project Name: Brittmore Road Paving & Drainage Design WBS Number: N-000697-0001-3 Company Name: Right Way Engineering, Inc				
Month	Total	Jones Surveying	J C Brown, Inc.	Gray & Associates,	Griggs Engineering
Oct-16	\$41,000	\$4,000	\$12,000	\$15,000	\$10,000
Nov-16	\$35,000	\$15,000	\$8,000	\$8,000	\$4,000
Dec-16	\$31,000	\$8,000	\$9,000	\$8,000	\$6,000
Jan-17	\$16,000	\$0	\$4,000	\$7,000	\$5,000
Feb-17	\$23,000	\$3,000	\$8,000	\$8,000	\$4,000
Mar-17	\$26,500	\$2,500	\$8,000	\$12,000	\$4,000
Apr-17	\$29,500	\$1,500	\$12,000	\$12,000	\$4,000
May-17	\$16,000	\$0	\$0	\$12,000	\$4,000
Jun-17	\$3,000	\$0	\$0	\$0	\$3,000
Jul-17	\$3,000	\$0	\$0	\$0	\$3,000
Aug-17	\$3,000	\$0	\$0	\$0	\$3,000
Sep-17	\$3,000	\$0	\$0	\$0	\$3,000
Oct-17	\$0	\$0	\$0	\$0	\$0
Nov-17	\$0	\$0	\$0	\$0	\$0
Dec-17	\$0	\$0	\$0	\$0	\$0
Jan-18	\$0	\$0	\$0	\$0	\$0
Feb-18	\$11,000	\$1,000	\$10,000	\$0	\$0
Mar-18	\$0	\$0	\$0	\$0	\$0
Apr-18	\$0	\$0	\$0	\$0	\$0
(continue adding months)	\$0	\$0	\$0	\$0	\$0
\$	\$241,000	\$35,000	\$71,000	\$82,000	\$53,000
%	24.10%	3.50%	7.10%	8.20%	5.30%

Deviation Requests



- Work designated in the Prime's approved MWBE participation plan cannot be completed by any other subcontractor, supplier or the Prime unless approved by OBO first.
- If Prime needs to make any changes to the participation plan by **adding, removing or substantially reducing (more than 50%) participation** of an MWBE, Prime **must** first submit a written deviation request.
- Complete Deviation Request Form

This form can be found at www.houstontx.gov/obo. Click on "Forms and Documents."



Deviation: Removal or Reduced Participation



Prime's Responsibility

- Before submitting the deviation request, Prime must give written notice to affected MWBE of its intent to request **removal** or **substantially reduce participation**.
- Prime must provide MWBE with specific reason(s)
 - – Reason(s) must constitute “**good cause**”:
 - Unable to execute an agreement after award.
 - Subcontractor unable to perform.
 - The listed subcontractor is ineligible to receive credit for the type of work required.
 - The listed subcontractor is ineligible to work because of suspensions or debarment.
 - The subcontractor voluntarily withdraws.



Deviation: Removal or Reduced Participation Cont'd.

- Prime must give MWBE five (5) business days to respond to the written notice.
- Prime must submit to OBO:
 - Copy of the notice to the affected MWBE along with any objections by the affected MWBE.
 - Reason why Prime's request should be approved despite the objection, if any.
 - Copy of a completed online *Deviation Request* form including information about Prime's plan to meet the approved MWBE participation plan if removal or reduction is approved.



Deviation: Removal or Reduced Participation Cont'd.



OBO's Review

- OBO will confirm MWBE's consent or refusal.
- If MWBE does not consent to being removed, OBO will initiate mediation between the Prime and the MWBE to attempt a resolution.
- If parties fail to reach a resolution after mediation, OBO will make a reasonable determination based on all the information provided by the parties, including information provided by contracting department regarding any relevant technical project issues.
- OBO will provide a written final determination to Prime, affected MWBE and the contracting department.



Deviation: Addition



- Prime must submit a completed online *Deviation Request* form when requesting to add an MWBE for goal credit to the existing approved participation plan.
- OBO's Review:
 - Ensure proposed addition does not adversely impact MWBEs already listed for credit on project
 - Understand how the proposed addition affects the overall MWBE participation plan
 - OBO will confirm MWBE's consent or refusal
- OBO will provide a written final determination to Prime, affected MWBE and the contracting department.
- Within 14 business days of the date of OBO's approval letter, the Prime must provide OBO with a copy of the executed subcontracting agreement or purchase order agreement with the new MWBE.
- Prime must also provide an updated *MWBE Utilization Schedule*, if applicable.





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Failure to make Post-Award Good Faith Efforts



Failure to Make GFE: Common Observations



- Failure to respond to City inquiries (letters, emails, calls) regarding MWBE utilization.
- Failure to execute required subcontracting agreements outlining terms of engagement.
- Listing MWBEs for goal credit without notifying them.
- Failure to submit deviation request for a change in MWBE Participation Plan.
- Failure to fully report payments made to MWBEs.



Failure to Make GFE: Common Observations Cont'd.

- Self-performing work intended for MWBEs, without OBO approval.
- Failure to understand how MWBEs will perform on the contract (no Commercially Useful Function or partial goal credit work).
- Failure to notify MWBEs and OBO promptly of any challenges that will affect MWBE utilization.
- Failure to look for goal credit opportunities on additional work authorized.
- Failure to look for goal credit opportunities when a change order affects the contract
- Failure to document changes that affect goal credit MWBEs.



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Final Post-Award GFE Assessment



Assessment of Post-Award Good Faith Efforts



- Contractor's efforts to meet MWBE contract goal(s) are assessed at the end of the project.
- Good Faith Efforts begins when the project is awarded, so start documenting the things you did and submit all relevant documentation of your efforts to OBO by the end of the contract.
- Not making sufficient good faith effort to meet the goal may affect whether the department adds more money to the current contract or awards future contracts to your company.
- Failure to make good faith efforts will result in an "unsatisfactory" compliance rating.
- Unsatisfactory ratings may impact award of future projects if a sanction is imposed.



Ratings For MWBE Goal Compliance



- **Outstanding**

- Prime exceeded contract goal(s) by at least 1% and made GFE to utilize all approved MWSBEs.
- Prime exceeded advertised goal(s) but fell short of contract goal(s) and made GFE to use all approved MWSBEs.

- **Satisfactory**

- Prime meets contract goal(s).
- Prime exceeded contract goal(s) but failed to make GFE to utilize all approved MWSBEs.
- Prime exceeded advertised goal(s) but fell short of contract goal(s) and failed to make GFE to use all approved MWSBEs

- **Satisfactory Due to Good Faith Efforts**

- Prime failed to meet contract goal(s), but made GFE to utilize all approved MWSBEs.

- **Unsatisfactory**

- Prime failed to make GFE to utilize all approved MWSBEs and fell short of the goal(s) by more than 1%.



Case Study 1 – Satisfactory - Approved Good Faith Efforts



**Construction Project goals were 19% MBE 5% WBE
Contractor met 16.5% MBE 3% WBE**

Contractor demonstrated Good Faith Efforts by providing documentation, which are as follows:

- All MBE and WBE firms from RCA were utilized on the contract
- Overall project scope decreased in contract
- Contractor followed deviation process to remove a goal credit MWBE subcontractor and add another
- MBE and WBE firms were utilized throughout the contract, but their dollar values decreased based on scope change
- OBO kept track using project utilization schedule
- OBO communicated with the contracting department and contractor to verify information provided
- Contractor received satisfactory rating



Case Study 2 – Unsatisfactory - Denied Good Faith Efforts



Construction Project goals 7% MBE 4% WBE

Contractor met 17% MBE 0% WBE

Contractor failed to demonstrate Good Faith Efforts:

- Contractor utilized all MBE firms on the contract.
- Contractor did not utilize the WBE firm listed on the contract
- According to the contractor the work scheduled for the WBE was removed by the COH but contractor failed to remove WBE firm through the contractually mandated deviation process
- The change by COH happened within reasonable amount of time to deviate
- Contractor did not make any efforts to replace the WBE participation amount
- OBO reviewed change order and discussed with the contracting department
- OBO made independent decision based on all information obtained
- Contractor received unsatisfactory rating due to contractor's failure to make good faith efforts to meet the WBE goal.



Case Study 3 – Outstanding Rating



Professional Services Project goal 11% MWBE Contractor achieved 15% MWBE

- Contractor followed deviation process to remove a goal credit MWBE for good cause
- Contractor utilized all approved certified MWBE firms to full capacity and beyond
- Contractor provided up-to-date utilization schedules



Challenging an “Unsatisfactory” Rating

- OBO evaluates the MWBE compliance of Contractors before final clearance and a final payment request is made to City Council on projects.
- After evaluation of Contractor’s good faith efforts to meet the MWBE goal, Contractors are notified of their compliance rating via letter.
- Contractors who do not agree with their ratings have 14 days to challenge them by contacting Johnnie Burns at 832-393-0638 or via email at johnnie.burns@houstontx.gov. OBO will review all explanations and documents, then notify Contractors of the final rating.
- The initial rating will become final if Contractor fails to challenge it within 14 days.





Questions?

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Thank You.



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