

# SUBP Deviation Request Process



In accordance with the Minneapolis Code of Ordinances, Section 423.100, Small and Underutilized Business Enterprise Program (SUBP) – Post-Award Substitutions:

“A contractor shall not substitute, reduce participation of, or eliminate MBE/WBE subcontractors listed in the documentation provided to the city without the prior written approval of the director. A contractor who substitutes, reduces participation of, or removes a MBE/WBE subcontractor listed in the documentation without prior written approval shall be subject to a fine of up to ten thousand dollars (\$10,000.00) per violation, or any of the penalties identified in section 423.120. The director may promulgate rules, policies, and forms related to this written approval process.”

With that, the Contract Compliance Division (CCD) has developed a process for general contractors to follow in the event a minority and/or woman owned business must be substituted on a project. The SUBP MBE/WBE Deviation Request Form shall be completed by the general contractor and submitted to our office for review. No MBE and/or WBE business shall be substituted, participation reduced and/or removed from the project until the general contractor has received written approval from CCD to do so. Failure to follow this process may deem the project non-compliant and further actions will be taken.

## Removal or Reduction in SUBP Participation:

- 1) The Prime must send notice of removal, substitution or reduction in participation to the affected MBE/WBE firm, with a copy sent to CCD stating the specific reason(s) for the request. The Prime must also demonstrate a good specific reason to justify the removal or reduction. CCD has established in accordance with Section 423 of the City Ordinance acceptable justification of removals, which includes, but is not limited to:
- 2) The affected MBE/WBE becomes bankrupt or insolvent
- 3) The affected MBE/WBE fails or refuses to execute a written agreement
- 4) The affected MBE/WBE fails or refuses to perform the work of its subcontract or fails to perform its work in a way that is acceptable to the contracting department.
- 5) The affected MBE/WBE is deemed ineligible to work on city projects because of sanction, debarment, or applicable state law
- 6) The affected MBE/WBE voluntarily withdraws from the project and provides written notice of its withdrawal.
- 7) Other documented good cause not listed above that compels the removal/reduction of the affected MBE/WBE.

The Prime must give the affected MBE/WBE five (5) business days to respond to the written notice of removal or reduction. The Division determines if good cause exists under Mpls. Code of Ord. 423.100 and will review contract goals to determine if additional GFE documentation is required to justify the replacement. The Division will notify the GC of an approval or denial of the SUBP Substitution Request Form.

## Small & Underutilized Business Program (SUBP) MBE/WBE Deviation Request

Please complete this form prior to substituting, reducing participation, or eliminating an MBE/WBE firm that was committed to<sup>1</sup>. This form is not considered complete until documentation supporting the request is attached, and the Division has approved the request. Failure to receive approval may result in noncompliance action. The Prime must provide CCD with a copy of all written documentation/notification to the affected MBE/WBE along with any oppositions, a completed Deviation Request form, and an updated MBE/WBE Utilization plan.

### General Contract Information

Project Name/Event #:		Request Date:
General Contractor:	GC Project Manager:	
Email Address:	Phone:	
General Contract Amount: \$		

### SUBP Contract Information

<input type="checkbox"/> <u>Substituting</u> MBE/WBE	<input type="checkbox"/> <u>Reducing</u> MBE/WBE	<input type="checkbox"/> <u>Eliminating</u> MBE/WBE
Name of MBE/WBE:		MBE: <input type="checkbox"/> WBE: <input type="checkbox"/>
Contact Person:		Scope:
Email:		
Original Contract Amount:	Proposed Contract Amount:	
If Substituting; Proposed Subcontractor:		
Reason(s) for change (use additional sheet if needed):		

**Attached:**

- ☐ Bidders & Solicitation List   
 ☐ Letter to Terminate   
 ☐ Voluntary Removal Request  
☐ Contractor Profile Form   
 ☐ Good Faith Efforts   
 ☐ Other: \_\_\_\_\_

**Contractor Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

### FOR CIVIL RIGHTS DEPARTMENT USE ONLY

<input type="checkbox"/> Accepted	<input type="checkbox"/> Rejected
Reason(s):	
CCD Director Signature:	Date:

Should you have any questions and/or need assistance with this process, please contact the Compliance Officer assigned to your project,

Or email, [contractcompliance@minneapolismn.gov](mailto:contractcompliance@minneapolismn.gov)

The general contractor must make a good faith effort to replace a MBE/WBE subcontractor who is unable to perform successfully with another MBE/WBE firm.