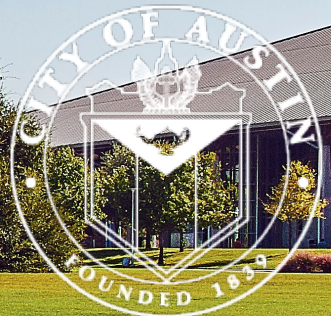




# 2019 Consultant & Construction Contractor Symposium

City of Austin



# SMBR Compliance Review Objectives



**Provide a general overview of SMBR**



**Pre-Award Compliance Activities**

**Provide Overview of Bidder/Proposer & Subs Pre-Award activities**

**We can help you be compliant!**



**Post Award Compliance Activities**

**Provide Overview of Bidder/Proposer & Subs Post Award activities**

**We can help you stay compliant!**



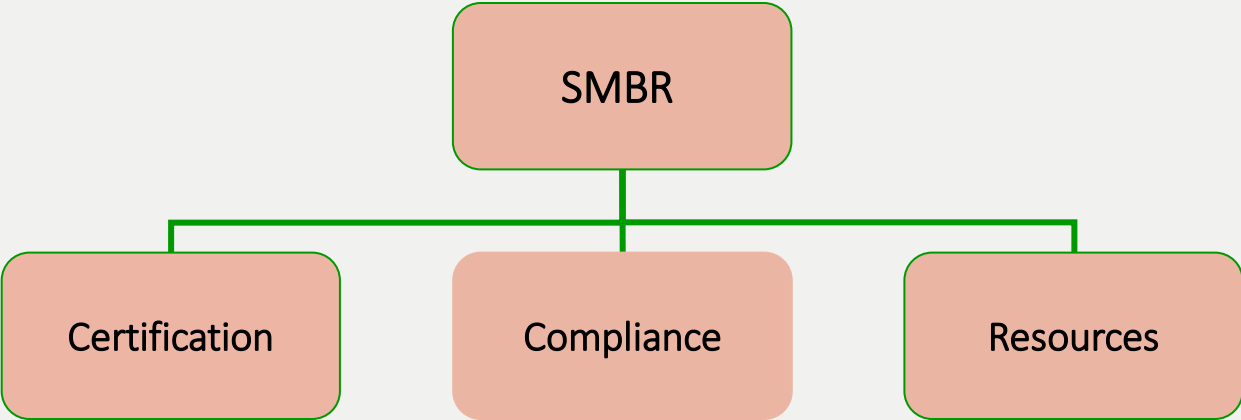
**Questions**



# Small & Minority Business Resources



- Administer the Minority- and Women-Owned Business (MBE/WBE) Enterprise Procurement Program; and
- Certifies businesses that meet eligibility criteria for the City’s M/WBE Program and the Federal DBE/ACDBE Program.
- Provide development opportunities and resources for small businesses so that they can have affirmative access to city procurement opportunities and show productive growth.



# What is the MBE/WBE Program?

- City's MBE/WBE Procurement Program established in 1987
- Establishes criteria for interested Bidders/Proposers to solicit participation of certified MBEs and WBEs to meet commitments throughout project completion
- Establishes guidelines for the use of certified MBEs, WBEs, and DBEs on COA contracts & (ACDBE/DBE program governed by 49 CFR Part 26 & Part 23)



## City Code for 4 Procurement Areas:

- Construction 2-9A
- Professional Services 2-9B
- Non-Professional Services 2-9C
- Commodities 2-9D

# Pre-Award Compliance

COMPLIANCE



- Primes meet Solicitation Goals by using certified firms in specific scope of work or performs and submit GFE.
- Subs submit requested info to Primes timely and as requested.

# MBE/WBE Compliance Plan

## Ensure the following:

- Firm is certified by the City of Austin
- Firms are certified for specific commodity codes
- Only list on the Compliance Plan scopes of work for which the sub will perform on this contract.
- Certified Prime firms may count their own participation
- Every level of subcontractor participation may be counted toward the goals
- Dually certified firms can be counted as either MBE or WBE but not both
- Provide Dollar Values and or Percentages
- Complete the Good Faith Effort Checklist & Submit GFE



**MBE/WBE COMPLIANCE PLAN**

All applicable sections must be completed and submitted by the due date and time as indicated in the solicitation documents.

**Section I — Project Identification and Goals**

Project Name	
Solicitation Number	

Project Goals or Subgoals	
Combined MBE/WBE	%
MBE	%
African American	%
Hispanic	%
Asian/Native American	%
WBE	%

**Section II — Bidder Company Information**

Company Name	
Address	
City, State Zip	
Phone	
Fax	E-Mail
Name of Contact Person	
Is your company registered on Vendor Connection?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, provide Vendor Code _____ If No, please note: All vendors, subcontractors and consultants must register with COA's Vendor Connect prior to award. See Link for registration information at <a href="https://www.ci.austin.tx.us/financeonline/finance/index.cfm">https://www.ci.austin.tx.us/financeonline/finance/index.cfm</a>
Is your company COA M/WBE certified?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please indicate MBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE/WBE Joint Venture <input type="checkbox"/>

I certify that the information included in this *MBE/WBE Compliance Plan* is true and complete to the best of my knowledge and belief. I further understand and agree that this *MBE/WBE Compliance Plan* shall become a part of my contract with the City of Austin.

\_\_\_\_\_  
Name and Title of Authorized Representative

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**For City of Austin SMBR Use Only:**

I have reviewed this Compliance Plan and found that the Bidder **HAS**  **HAS NOT**  complied as per the City Code Chapter 2-9.A through GFE.

Reviewing Counselor \_\_\_\_\_ Date \_\_\_\_\_

I have reviewed this Compliance Plan and have found the Bidder **COMPLIANT**  **NON-COMPLIANT**

Director / Assistant Director \_\_\_\_\_ Date \_\_\_\_\_

# The Compliance Plan

## Section I Project Identification and Goals

This section includes the pre-printed Project Name, Project/Solicitation Number, and goals and/or subgoals. The Bidder **does not** need to fill in any information under Section I.

## Section II Bidder Information

The Bidder should complete this section with your information.

The portion of Section II marked as "SMBR Use Only" should be left blank.

# The Compliance Plan

Please list all certified MBE/WBEs firms using the legal name under which they are registered to do business with the City of Austin and the commodity codes with descriptions.

By listing certified MBE and WBE Firms on the Compliance Plan, the Bidder indicates that both parties acknowledge the scope of work and that they are prepared to contract for that scope if the City awards the project to the Bidder.

## NOTE:

To be counted toward project goals, MBE/WBEs must be certified by the City of Austin’s SMBR Department prior to the due date to submit the Compliance Plan as specified in the City’s solicitation documents.



### Section IV — Disclosure of MBE and WBE Subcontractors (Duplicate as Needed)

- Note:
- Fill in all the blanks (use “none” or “N/A” where appropriate).
  - MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
  - Fill in names of MBE/WBE certified Firms as registered with City of Austin Vendor Connection.
  - Select either MBE or WBE for dually certified firms to indicate which certification will count towards the MBE or WBE goal.
  - Contact SMBR to request an availability list of certified Firms for additional scopes of work that were not included on the original availability list.

<b>Name of MBE/WBE Certified Firm</b>	
City of Austin Certification Data	<input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	

<b>Name of MBE/WBE Certified Firm</b>	
City of Austin Certification Data	<input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	

<b>Name of MBE/WBE Certified Firm</b>	
City of Austin Certification Data	<input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	

<b>Name of MBE/WBE Certified Firm</b>	
City of Austin Certification Data	<input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	



# Disclosure of Noncertified Firms

Please list all known non-certified subcontractors, using the legal name under which they are registered to do business with the City of Austin, to be used in the performance of this contract. If Bidder will not use any non-certified Firms, please write "N/A" in the first box on this page.

The scopes of work indicated in Section V will be considered subcontracting opportunities for MBEs and WBEs, unless it is demonstrated that certified MBEs or WBEs are unavailable or do not possess the requirements in the technical portion of the solicitation to perform the work involved.


If the Bidder did not meet the project goals, an explanation is required in the space provided as to why MBEs/WBEs were not used as subcontractors. Documentation for the stated reason, if applicable, must be attached. If the Bidder did meet the project goals, please indicate "Goals Met" in the space provided.

**Section V — Disclosure of Non-Certified Subcontractors  
(Duplicate as Needed)**

- Note:
- Fill in all the blanks (use "none" or "N/A" where appropriate).
  - MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
  - Fill in names of Second-Level Subcontractors as registered with the City of Austin.

Are Goals Met? Yes  No  If no, state reason(s) below and attach documentation:

Name of Non-Certified Subcontractor	
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Reason Certified Firm not used	
Name of Non-Certified Subcontractor	
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Reason Certified Firm not used	
Name of Non-Certified Subcontractor	
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	
Reason Certified Firm not used	
Name of Non-Certified Subcontractor	
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
First-Level Subcontractor	
Reason Certified Firm not used	



Section VIII — MBE/WBE Compliance Plan Check List

Is the stated project goal of the solicitation met?

Yes  No

(If no, complete and submit Section VIII Compliance Plan Check List)

If the goals or subgoals were not achieved, all questions in Section VIII *must* be completed and Good Faith Efforts documentation must be submitted with the MBE/WBE Compliance Plan. The completion and submission of this form is not required if the above question is answered *Yes*.

Is the following documentation attached to support good faith effort requirements to achieve goals or subgoals?		
• Copy of written solicitation sent to MBE/WBEs in SLBP area 7 business days prior to the submission of this Compliance Plan	Yes <input type="checkbox"/>	No <input type="checkbox"/>
• Two separate methods of notices sent to MBE/WBEs in SLBP area Indicate notice types: fax transmittals emails phone log letters	Yes <input type="checkbox"/>	No <input type="checkbox"/>
• Copy of advertisements placed in local publication	Yes <input type="checkbox"/>	No <input type="checkbox"/>
• Copy of notices sent to Minority and Women organizations	Yes <input type="checkbox"/>	No <input type="checkbox"/>
• Documentation that demonstrates additional GFEs: <ul style="list-style-type: none"> <li>○ Efforts to assist interested MBEs/WBEs in obtaining bonding, lines of credit, or insurance as required by the City or contractor</li> <li>○ Efforts to assist interested MBEs/WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services</li> <li>○ Efforts made to reach agreements with the MBE/WBEs who responded to Bidder's written notice</li> </ul>	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Were additional elements of work identified to achieve the goals or subgoals? Yes  No

If yes, please explain: \_\_\_\_\_

Was SMBR contacted for assistance? Yes  No

If yes, complete following:

Contact Person: \_\_\_\_\_

Date of Contact: \_\_\_\_\_

Summary of Request: \_\_\_\_\_

Were Minority or Women organizations contacted for additional assistance? Yes  No

If yes, complete following:

Organization(s): \_\_\_\_\_

Date of Contact: \_\_\_\_\_

Summary of Request \_\_\_\_\_

# GFE Checklist



Please complete the MBE/WBE Compliance Plan Check Sheet with the information requested.

All questions in Section VIII must be completed and submitted with the Compliance Plan if goals or subgoals are not met.

- Solicitations must be sent to MBE/WBEs within the SLBP within seven (7) business days prior to bid due date.
- Local advertisement examples include but is not limited to local newspaper, local trade association publication, or via electronic/social media.
- Be sure to reach out and contact our local minority trade associations (Asian Contractor Assoc., Austin Area Black Contractors Assoc., & US Hispanic Contractors Assoc. de Austin)

# Meeting GFE Requirements

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Contact SMBR  
for assistance

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- Notify Certified Firms using two separate verifiable methods seven business days prior to bid date (fax, e-mail, mail or phone call)
- Notices should contain project requirements, addenda, contact information and due dates for responding
- Follow up with interested MBE/WBE firms
- Negotiate in good faith with interested MBEs and WBEs
- Publish notice in a local publication (i.e. newspaper, trade association publication, or social/electronic media)
- Seek services of trade associations and other minority and women community organizations
- Contact SMBR for assistance
- Select portions of work that will increase MBE/WBE opportunities

# **SMBR CAN HELP!**

- **Ask us questions on the process**
- **We can provide you an Availability List**
- **Step-by-step instructions on completing forms**
- **Verify certification status on firms**

**We want your firm to be compliant!**



**You've Been  
Awarded a Contract,  
Now What?**

# Post Award Activities

- Pre-Construction (Pre-Con) Kick-Off Meeting
- Monthly/Weekly Progress Meetings
- Sub Utilization & Monthly (Subconsultant - SUBk) Reports
- Sub-consultant Utilization Form (SUF)
- Request for Changes (RFC)
- Final MBE/WBE Closeout
- Violations



# Subconsultant Utilization Form

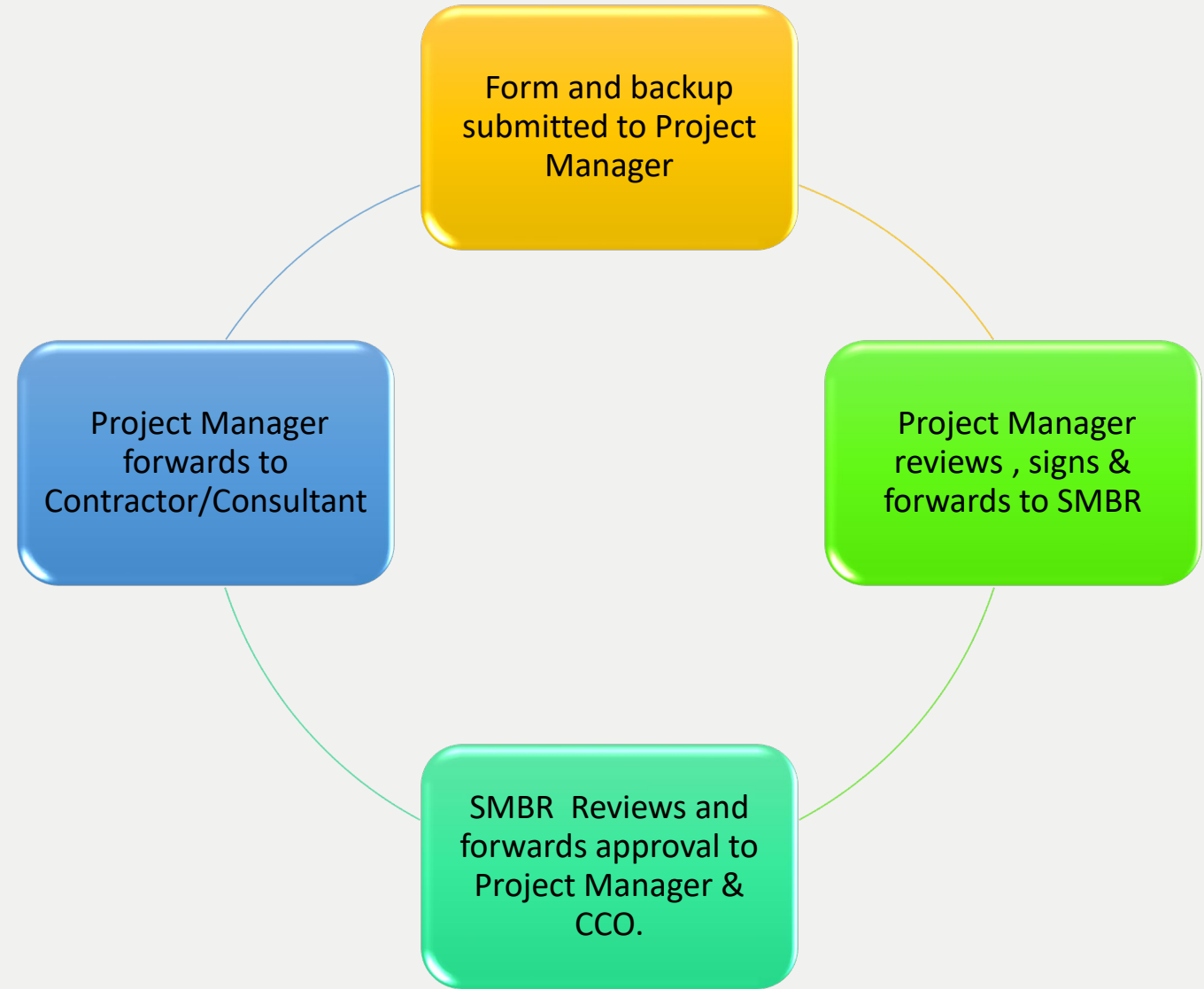
- Form is included with proposal
- Review before Notice to Proceed (NTP) is issued
  - Subs are approved (through CP or RFC)
  - Subs are approved for SOW
- Include explanation if not meeting goals

**NOTE: SUF's are only required for Professional Service Rotation List Contracts.**

Subconsultant Utilization Form			Contract Management Department Contract Management Division			
Rotation List Name: _____			Project Mgr: _____			
Project Name: _____			Assignment # / P.R #: _____			
Date: _____	Submitted by: _____		Firm: _____			
Firm	Cert Type	Description of Work	Work Hours	Amount \$		
<Your Firm Here>		<Brief Description of work to be performed>	0.0	\$0.00		
<Subconsultant 1>		<Brief Description of work to be performed>	0.0	\$0.00		
<Subconsultant 2>		<Brief Description of work to be performed>	0.0	\$0.00		
<Subconsultant 3>		<Brief Description of work to be performed>	0.0	\$0.00		
<Subconsultant 4>		<Brief Description of work to be performed>	0.0	\$0.00		
<Subconsultant 5>		<Brief Description of work to be performed>	0.0	\$0.00		
<Subconsultant 6>		<Brief Description of work to be performed>	0.0	\$0.00		
<Subconsultant 7>		<Brief Description of work to be performed>	0.0	\$0.00		
<Subconsultant 8>		<Brief Description of work to be performed>	0.0	\$0.00		
<Subconsultant 9>		<Brief Description of work to be performed>	0.0	\$0.00		
<Subconsultant 10>		<Brief Description of work to be performed>	0.0	\$0.00		
<Subconsultant 11>		<Brief Description of work to be performed>	0.0	\$0.00		
<Subconsultant 12>		<Brief Description of work to be performed>	0.0	\$0.00		
<Subconsultant 13>		<Brief Description of work to be performed>	0.0	\$0.00		
<Subconsultant 14>		<Brief Description of work to be performed>	0.0	\$0.00		
<b>TOTAL</b>			<b>0.0</b>	<b>\$0.00</b>		
MBE/WBE PARTICIPATION						
<i>Please calculate participation percentages for each category, based upon the total dollar amount for certified firms in the specified category, divided by the Total Amount of the assignment</i>						
	Non - Certified	African American	Hispanic	Asian / Native American	MBE	WBE
<i>This Assignment</i>	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
<b>Compliance Plan</b>	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
<i>See next page for approval signatures</i>						
Please provide an explanation for any categories where participation for this assignment is less than the approved Compliance Plan percentages:						
I certify that the information listed above has been reviewed and is accurate to the best of my knowledge.						
Firm Representative _____				Date _____		
FOR COA USE ONLY						
I have reviewed the Consultant utilization and MBE/WBE participation for this assignment. A copy of this form will be forwarded to the appropriate SMBR Representative						
Project Manager: _____				Date _____		
Rotation List Mar _____				Date _____		



# Request for Change Process Review



# Request for Change Form (RFC)

**REQUEST FOR CHANGE OF COMPLIANCE PLAN**

**Note:** 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.

Date:	Contract No.:
Solicitation No.:	Project Name:
Prime Contractor/Consultant:	

Proposed Change:	<input type="text"/>	
Subcontractor/Subcons	<input type="text"/>	
Name of Subconsultant	<input type="text"/>	<input type="text"/>
Vendor Code:	<input type="text"/>	City of Austin Certified: <input type="text"/>
Contact Person:	<input type="text"/>	
Proposed Change (\$):	<input type="text"/>	
Commodity Code & Brief Description of Work:		
Reason for Requesting Change: (Attach supporting documentation as necessary):		

**Note:** If the request is a substitution, complete information for the firm being removed in the space above and sub being added below.

Subcontractor/Subconsultant Level:	<input type="text"/>	
Name of Subconsultant/Subcontractor:		
Vendor Code:	Ethnic/Gender Code:	City of Austin Certified:
Contact Person:	<input type="text"/>	
Proposed Change (\$):	<input type="text"/>	
Commodity Code & Brief Description of Work:		
Reason for Requesting Change: (Attach supporting documentation as necessary):		
Add Another Change		Delete Change

I certify that the information included in this Request for Change of Compliance Plan is true and complete to the best of my knowledge and belief.

Prime Consultant/Contractor Printed Name	
Prime Consultant/Contractor Signature	Date

# Request for Change Form (RFC)

**\*\* This section for City of Austin use only \*\***

If all of the following requirements are met, the SMBR Department Director's prior written approval is on file with the Public Works and Purchasing Directors, and is automatic. Project Manager should sign the form and send a copy directly to SMBR:

- Change is for an existing certified subcontractor/subconsultant already listed in the Compliance Plan.
- Change is within the existing scope being performed by the subcontractor/subconsultant.
- Change is an increase in the contract amount for the subcontractor/subconsultant.

Project Manager Printed Name		Good Faith Effort? (explain in Comments field)	
Project Manager Signature		Date:	
Project Manager Comments:			
Division Manager Signature		Date:	
Division Manager Comments:			
Department Director Signature		Date:	
Department Director Comments:			
SMBR Representative Signature		Date:	
SMBR Representative Comments:			
I approve the requested change.		I disapprove the requested change.	
Director, SMBR	Date:	Director, SMBR	Date:
SMBR Director Comments:			

# Contract Close Out



## MBE/WBE CONTRACT COMPLIANCE CLOSE-OUT REPORT (To be completed by Consultant/Contractor)

**Project Name:** \_\_\_\_\_

**Solicitation No.:** \_\_\_\_\_ **Contract No.:** \_\_\_\_\_

**Consultant/Contractor Name:** \_\_\_\_\_

**Project Mgr/Contract Admin.:** \_\_\_\_\_

**Consultant/Contractor is:**  Non-MBE/WBE  MBE  WBE  MBE/WBE Joint Venture

**MBE/WBE Consultant/Contractor:** Ethnicity Code:  AFRICAN AMERICAN  HISPANIC  
 ASIAN/NATIVE AMERICAN  WHITE

**Gender Code:**  FEMALE  MALE

### Part 1: Summary Information

Original Contract & Compliance Plan	Approved Changes	Final Total	Actual Amount Paid	Retainage
<b>Contract Amt \$</b> _____	\$ _____	\$ _____	\$ _____	\$ _____
<b>MBE/WBE Amt</b>				
MBE \$ _____ ( _____ %)	\$ _____	\$ _____ ( _____ %)	\$ _____	\$ _____
<b>If ethnic-specific:</b>				
African-Am \$ _____ ( _____ %)	\$ _____	\$ _____ ( _____ %)	\$ _____	\$ _____
Hispanic \$ _____ ( _____ %)	\$ _____	\$ _____ ( _____ %)	\$ _____	\$ _____
Native-Am \$ _____ ( _____ %)	\$ _____	\$ _____ ( _____ %)	\$ _____	\$ _____
Asian-Am \$ _____ ( _____ %)	\$ _____	\$ _____ ( _____ %)	\$ _____	\$ _____
WBE \$ _____ ( _____ %)	\$ _____	\$ _____ ( _____ %)	\$ _____	\$ _____

### Part 2: Consultant/Contractor Participation

If contractor/consultant is a MBE or WBE, contractor/consultant participation, minus any amount subcontracted

Original Compliance Plan	Approved Changes	Final Total
\$ _____ ( _____ %)	\$ _____	\$ _____ ( _____ %)

### Part 3: Subcontractor Participation (Duplicate as needed.)

## Part 4: Affidavit

The above information is true and complete to the best of my knowledge and belief.

Name and Title (Print): \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared

\_\_\_\_\_ and having been duly sworn by me, subscribed to the foregoing affidavit and has stated that the facts stated therein are true and correct.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name of Notary

### For City of Austin use only:

Did any violations occur on the project?  YES  NO

Did the Contractor/Consultant meet the Post-Award Requirements of the MBE/WBE Procurement Program?  YES  NO

Project Mgr./Contract Administrator Approval \_\_\_\_\_ Date \_\_\_\_\_

SMBR Representative Approval \_\_\_\_\_ Date \_\_\_\_\_

SMBR Director Approval \_\_\_\_\_ Date \_\_\_\_\_



# Program Violations

- Providing false or misleading information
- Making changes without SMBR approval
  - Adding New Subcontractors – all tiers
- Deleting Approved
  - Without due notice
  - Without opportunity to cure performance issues
  - Contract changes (decreases, adding \$\$ for new scope to existing sub w/o performing GFE)
- Failing to meet contractual goals or subgoals without justification
- Bid Shopping

# **SMBR CAN HELP!**

- **We want to partner with you to avoid violations!**
- **Contact your SMBR representative directly with questions on all forms required;**
- **or contact us at**  
**[SMBRComplianceDocuments@austintexas.gov](mailto:SMBRComplianceDocuments@austintexas.gov)**
- **Performance or payment issues? We can help!**