

Procurement and the MBE/WBE Program



Capital Contracting Office and Small and
Minority Business Resources Department

November 7, 2017

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- II. MBE/WBE Pre-Award Compliance
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SMBR Process



MBE/WBE Compliance on Professional
Service and Construction Contracts

MBE/WBE Certification



- Firm must be owned, managed and controlled by a socially and economically disadvantaged owner
- The MBE/ WBE Ordinance identifies five presumed groups as socially disadvantaged (Asian-American, African-American, Native American, Hispanic and Women) and provides a process for an individual not in one of the presumed groups to be considered socially disadvantaged.
- An economically disadvantaged individual is a business owner whose Personal Net Worth (PNW) does not exceed \$1.48 million.
- Certified MBE/WBEs must be small. SMBR uses the U.S. Small Business Administration's size standards to determine size.



Setting MBE/WBE Goals

- All City of Austin solicitations over the City Manager's spending authority are reviewed for goals.
- Although goals are not set on solicitations under the City Manager's spending authority, Purchasing Policy applies the MBE/WBE program by requiring soliciting MBE/WBEs as primes.
- The following solicitations are not reviewed for goals:
 - Sole source purchases
 - Public health and safety emergency purchases and services as described in Chapter 251 of the TX Local Govt. Code
 - Interlocal or intergovernmental agreements between or among political subdivisions
 - City of Austin (COA) sale of personal and real property
 - Loan transactions where COA is a debtor
 - Lease and franchise agreements
 - Agreements to use COA real property
 - Gifts to COA for material, equipment, supplies or services
 - Grant awards to non-profits

** The MBE/WBE Program can also be applied through the Third Party Resolution*



Setting MBE/WBE Goals

MBE/WBE Goals are set on a solicitation if the following criteria apply:

- There is more than one identified scope of work.
- There are at least 3 or more MBEs and/or WBEs for the scope of work.
- If there is sufficient availability in each ethnic group, ethnic specific goals will be applied.

SMBR sets 2 types of goals on contracts – Annual Participation Goals or Project Specific Goals.



Annual Participation Goals

- Set out in City Code § 2-9(A-D)-18
- Based on Disparity Study Data
- Based on availability of MBEs and WBEs in the City's Marketplace
- Expressed as percentages for each Minority and Women group by industry type to include construction, professional services, non-professional services and commodities

Annual Participation Goals



§ 2-9(A-D)-18 COA's Annual Participation Goals

Group	Construction	Professional Services	Nonprofessional Services	Commodities
African-American	1.7%	1.9%	2.5%	0.3%
Hispanic	9.7%	9.0%	9.9%	2.5%
Native/Asian American	2.3%	4.9%	1.7%	0.7%
MBE	13.7%	15.8%	14.1%	3.5%
WBE	13.8%	15.8%	15.0%	6.2%



Contract Specific Goals

- Scopes of work are identified
- Percentages are assigned to reflect the anticipated amount for each scope of work
- A weighted formula is applied that includes the percentages and MBE/WBE availability of each scope of work for the solicitation

No. of Certified Vendors (Per Ethnicity) X % of Scope
Total Vendors



Contract Specific Goals

No. of Certified Vendors (Per Ethnicity) X % of Scope
Total Vendors

Hispanic goal for hauling:

$$\frac{9 \times .35}{80} = .04\%$$

Trade Summary



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City of Austin Project Reporting and Information System

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Trade Summary

Solicitation Number	Solicitation Name	Solicitation Type
FB 6100 CLMC605	ABIA Stormwater Channel Improvements/Repair	Construction Project

Solicitation Phase: Phase 1
Solicitation Requestor: Vonstein, Alison
Solicitation Estimate: \$1,064,913
SMBR Contact:

Add Commodity Codes [?]

Templates Search Input Codes Copy

Get Commodity Codes from Trade Summary Templates.
Templates have a predefined list of commodity codes commonly used for the type of trade summary.

Choose a template: [v] [Get Template](#)

Commodity Codes [?]

Value entry type: Percentages [v] Availability List [v] Download XLS [v]

Category	Code	Description	Base/Alt	%	
Goods	21016	Concrete Beams, Channels, Roof Decks, Etc., Prestr	B	1.420	[x]
Goods	65834	Pipe, Concrete	B	1.810	[x]
Goods	7503542	Rip Rap, Concrete	B	20.750	[x]
Goods	75070	Ready-Mix Concrete	B	0.520	[x]
Construction	90976	Site Work	B	2.440	[x]
Non-Professional	91059	Pest Control (incl Termite Insp, Birds, Rodent)	B	0.010	[x]
Construction	9122345	Headwalls, Concrete, This Work Shall Consist Of Fu	B	0.980	[x]
Construction	91244	Excavation Services	B	18.850	[x]
Construction	91268	Management, Construction	B	13.020	[x]
Construction	9135039	Embankments, Construction Of. This Work Shall Cons	B	1.270	[x]
Non-Professional	9157297	Photography, Construction	B	0.010	[x]
Non-Professional	96836	Dust Control Watering	B	0.010	[x]
Non-Professional	96877	Survey (Not Aerial Or Research	B	0.020	[x]
Non-Professional	96814	Erosion Control Services	B	31.710	[x]
Non-Professional	96815	Fence Installation And Repair	B	0.750	[x]
Non-Professional	96838	Hydromulching Services	B	0.210	[x]
Non-Professional	96862	Landscaping (Including Design, Fertilizing, Planting	B	6.220	[x]
Total:				100 %	

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Project Specific Goal Calculation



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Capital Project Reporting and Information System

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- Rotation Lists

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Calculated Project Specific Goals

Solicitation Number	Solicitation Name	Solicitation Type
IFB 6100 CLMC605	ABIA Stormwater Channel Improvements/Repair	Construction Project

Solicitation Requestor: Vonstein, Alison
 Estimated Cost: \$1,864,913
 Solicitation Phase: Phase 1
 Goals Approved: No
 SMBR Contact:

Availability Lists

Snapshot No	Snapshot Date	Saved By	Reason	Trade Summary Version No	Trade Summary Version Date
There are no saved Availability Lists					

Goal Calculation for Availability 06/06/2016

Comm Code Desc	Comm Code	TS %	Hisp		Afr		Asi		Ntv		MBE		WBE		Non Cert #	Total #	DBE		
			#	WtAvg	#	WtAvg	#	WtAvg	#	WtAvg	#	WtAvg	#	WtAvg					
Concrete Beams, Channels, Roof Decks, etc., Prestr	21016	1.420	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	2	0.09	28	30	6	0.28	
Pipe, Concrete	65834	1.810	1	0.04	3	0.13	0	0.00	1	0.04	5	0.21	3	0.13	35	43	7	0.29	
RIP RAP, CONCRETE	7503542	20.750	0	0.00	1	0.58	0	0.00	0	0.00	1	0.58	0	0.00	34	36	4	2.31	
Ready-Mix Concrete	75070	0.520	1	0.01	0	0.00	0	0.00	0	0.00	1	0.01	0	0.00	34	36	3	0.04	
Site Work	90976	2.440	11	0.12	5	0.05	2	0.02	0	0.00	18	0.20	3	0.03	199	223	21	0.23	
Pest Control (Incl Termite Insp, birds, rodent)	91059	0.010	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	1	0.00	53	54	1	0.00	
HEADWALLS, CONCRETE, THIS WORK SHALL CONSIST OF FU	9122345	0.980	7	0.05	2	0.01	0	0.00	1	0.01	10	0.07	3	0.02	131	146	17	0.11	
Excavation Services	91244	18.850	15	0.85	6	0.34	0	0.00	1	0.06	22	1.25	4	0.23	305	333	27	1.53	
MANAGEMENT, CONSTRUCTION	91268	13.020	15	0.47	16	0.50	4	0.13	2	0.06	37	1.17	8	0.25	360	413	47	1.48	
EMBANKMENTS, CONSTRUCTION OF, THIS WORK SHALL CONS	9135039	1.270	4	0.05	1	0.01	0	0.00	0	0.00	5	0.06	0	0.00	93	99	7	0.09	
PHOTOGRAPHY, CONSTRUCTION	9157297	0.010	4	0.00	5	0.00	2	0.00	0	0.00	11	0.00	3	0.00	106	120	16	0.00	
Dust Control Watering	96836	0.010	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	5	5	0	0.00	
SURVEY (NOT AERIAL OR RESEARCH	96877	0.020	4	0.00	0	0.00	1	0.00	1	0.00	6	0.00	9	0.00	108	126	19	0.00	
Erosion Control Services	98814	31.710	5	1.62	2	0.65	0	0.00	0	0.00	7	2.27	4	1.29	87	98	11	3.56	
Fence Installation and Repair	98815	0.750	4	0.03	1	0.01	0	0.00	0	0.00	5	0.04	3	0.02	95	104	6	0.04	
Hydromulching Services	98838	0.210	1	0.00	2	0.01	1	0.00	0	0.00	4	0.01	4	0.01	52	60	5	0.02	
Landscaping (Including Design, Fertilizing, Planting	98852	6.220	9	0.19	4	0.08	2	0.04	0	0.00	15	0.31	8	0.16	279	302	22	0.45	
Total:			100 %	81	3.43	48	2.37	12	0.19	6	0.17	147	6.18	55	2.23	2004	2228	219	10.43

[Recommend Calculated Goals](#) | [Go to Goals](#)



Availability List

Certified M/WBE Vendors

eCAPRIS: City of Austin Project Reporting and Information System - Internet Explorer

http://ecapris.d.austin.tx.us/index.cfm?fuseaction=tradeSun

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eCAPRIS

Capital Project Reporting and Information System

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Solicitation Requestor: Vonstein, Alison
Solicitation Estimate: \$1,864,913
SMBR Contact:

Lists

Rotation Lists

Availability List Snapshots

Snapshot No	Snapshot Date	Saved By	Reason	Trade Summary Version No	Trade Summary Version Date	Bid Packet	GFE	Bid Opp	Report	Labels
There are no availability list snapshots.										

Bonds

Bonds Overview

Availability on 06/07/2016

[Export All](#) [Save Snapshot](#)

Vendor Code	M/WBE	G	Ethnicity	Certified Status	Certified End	60 Day Grace	Vendor Name
21016 Concrete Beams, Channels, Roof Decks, etc., Prestr							
VS0000025470	NCD						A to Z Construction, L.L.C.
VS0000018046	NC	M	Hispanic	Pending			ALD VERDE LLC
ALL8308483	NON	M	Asian				ALL STAR CONCRETE INC
VS0000035619	NON						AUGUSTINE PERALES
V00000909325	NCNR	M	African American	New			Adams Construction Group
VS0000023011	NON	F	Hispanic	Pending			Almanza Construction
SBR8309163	NON	M					BRINKNER GENERAL CONTRACTING INC
V00000921132	WDB	F	Caucasian	Certified	09/26/2017	11/25/2017	BULLCHASE, INC.
V00000928282	NON	M	Caucasian				Brian James Spcek
VS0000002296	NON						CDC Publishing LLC

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Compliance Determination

Determined under City Code 2-9(A-D)-21(E)

Firms are compliant by:

- Meeting goals or
- Demonstrating Good Faith Efforts (GFE) for any MBE or WBE goal that was not met

Firms submit a Compliance Plan detailing the subcontractors/subconsultants that will be used on the contract. SMBR reviews the Compliance Plan to determine compliance.



Counting Participation

- Firm must be certified by the City of Austin
- Firms are certified for commodity codes on Compliance Plan
- MBE/WBE prime firms may count their own participation towards the goal
- Every level of subcontractor participation may be counted toward the goals
- Dually certified firms are counted as either MBE or WBE for the contract - but not both



Good Faith Efforts

- Notify all certified firms on the availability list by two separate verifiable methods (fax, e-mail, mail or phone) at least 7 days prior to submission
- Follow-up with interested MBE/WBEs
- Negotiate in good faith with interested MBE/WBEs
- Select portions of work that will increase opportunities for MBEs/WBEs
- Publish in a local publication (newspaper, trade association publication or social/electronic media)



Good Faith Efforts

- Seek services of trade associations or other minority and women community organizations
- Contact SMBR for assistance

Additional Good Faith Efforts

Assist MBE/WBE firms with:

- Bonding, lines of credit, and insurance
- Obtaining necessary equipment, supplies, materials, or related services



Good Faith Effort Clarifications

- Self performance does not relieve the Bidder/Proposer of the responsibility to demonstrate GFE
- Bidders/Proposers should not disqualify MBE/WBE firms without sound reasons
- Bid Shopping is prohibited
- SMBR may consider the performance of other bidders/proposers in meeting the goals



Post Award Contract Monitoring

Monitor contracts to assure M/WBE Program Compliance to include:

- Monitor contracts to ensure Compliance Plan goals are being met and MBEs/WBEs are used.
- Ensure the MBEs/WBEs are used for scopes listed on the Compliance Plan for the amount of scope that arises (whether it is more or less than anticipated).
- Review Requests for Changes (RFC) to ensure compliance with MBE/WBE Procurement Program.
- Review and process Contract Closeouts ensuring MBE/WBE participation and payment.
- Assist with contract issues impacting MBE/WBEs.

Success of MBE/WBE Program



FY2016 Total MBE expenditures \$55,772,067

FY2016 Total WBE expenditures \$19,884,887

Percentage of solicitation that meet goals at Council Award	
2017	93%
2016	92%
2015	88%

Procurement Types



Professional Services:

- Architectural/Engineering
- Surveying
- Landscape Architecture
- Comprehensive Planning
- Commissioning

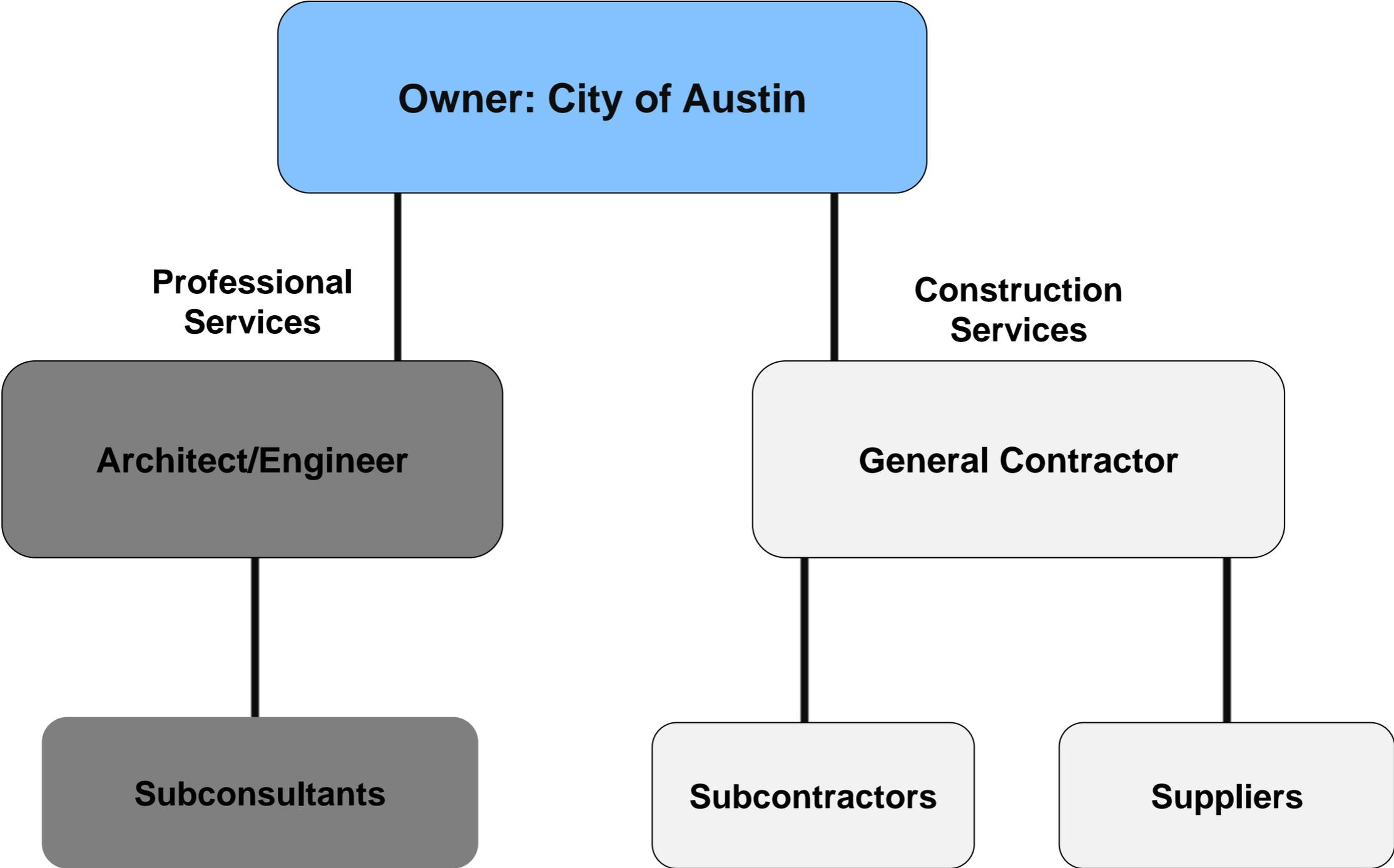
Construction Services:

- Lowest Responsible and Responsive Bid
- Alternative Methods:
 - Construction Manager at Risk (ABIA Parking Terminal/Apron Expansion)
 - Design-Build (Animal Center Kennel and Campus Improvements)
 - Competitive Sealed Proposal (Montopolis Recreation and Community Center)
 - Job Order Contracting (Facility Renovations)

MBE/WBE Ordinance:

- Requirement exists for each procurement type.

Design-Bid-Build



Design



Professional Service

Architect/Engineer

Subconsultants

Request for Qualifications

- Scope (project specific) or Rotation list (discipline-specific)
- Qualification Based Selection used to select most highly qualified (experienced) based on Scope of Work
- Established criteria relevant to scope and evaluations are conducted by qualified City staff
- SMBR leads establishment of MBE/WBE Goals and provides input on Firm's history in complying with MBE/WBE Ordinance

Supplemental Amendments:

- Addition of new work or changes in contract time
- Intentional to move from one phase to the next

Supplemental Amendments (SA) review/approval process

- When a SA will affect the MBE/WBE/DBE Compliance Plan, the Project Manager submits a Request for Change (RFC) of Compliance Plan.
- SMBR reviews and approves the RFC before the SA proceeds to CCO for review.
- CCO review to ensure:
 - Scope change is aligned with the contract scope
 - Funds are available to cover the change cost
 - Contract requirements are met.
- Change Control Committee

Bid-Build



Bid-Build for Construction Services:

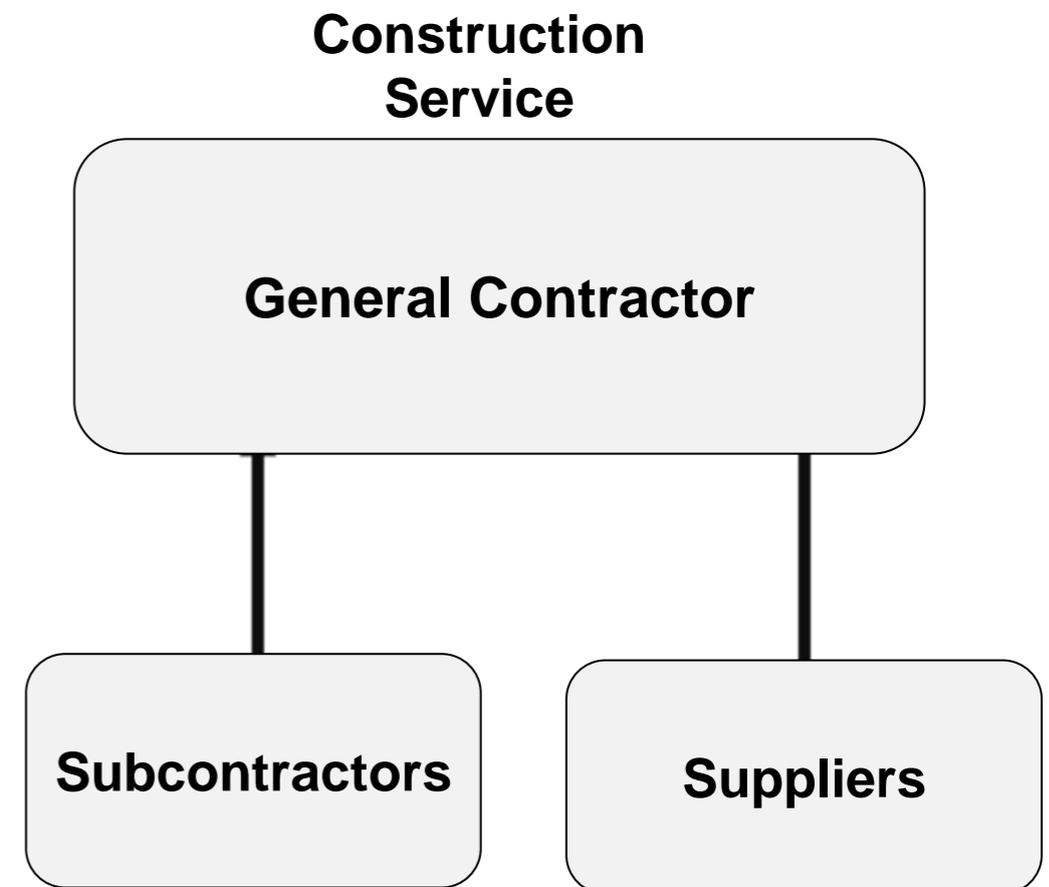
- Traditional bid method
- SMBR leads establishment of MBE/WBE Goals
- Award to lowest responsible/responsive bidder

Change Order (CO):

- Increase or decrease the estimated quantities of existing work items
- Addition of new work or changes in the contract time

Change Order (CO) review/approval process

- When a CO will affect the MBE/WBE/DBE Compliance Plan, the Project Manager submits a Request for Change (RFC) of Compliance Plan
- SMBR reviews and approves the RFC before the CO proceeds to CCO for review
- CCO review to ensure:
 - Scope change is aligned with the contract scope
 - Funds are available to cover the change cost
 - Contract requirements are met
- Change Control Committee comprised of management-level subject matter experts providing review of changes that exceed a specific criteria





Questions?