



## Post-Award Deviation Request



As set forth in the City of Houston Code of Ordinances, Chapter 15, Section 15-85, after execution of a contract, the Prime shall comply with the submitted participation plan, unless it has received approval from OBO to deviate from submitted plan. Below is a list of the four types of deviation requests. ***This process applies to all non-federally funded City contracts unless expressly stated otherwise by contract documents.***

### **Removal and Reduction in Participation**

I) The Prime must give notice of removal or substantial (more than 50%) reduction in participation to the affected MWSBE, with a copy sent to OBO, stating the request to remove or reduce and the specific reason(s). The Prime must demonstrate a good cause to justify the removal or reduction. Good cause includes, but is not limited to:

- The affected MWSBE fails or refuses to execute a written subcontracting agreement with reasonable terms.
- The affected MWSBE 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.
- The affected MWSBE becomes bankrupt, insolvent or exhibits credit unworthiness.
- The affected MWSBE is ineligible to work on projects because of sanction or debarment proceedings or applicable state law.
- The affected MWSBE voluntarily withdraws from the project and provides written notice of its withdrawal.
- The affected MWSBE is ineligible to receive credit for the type of work required.
- Other documented good cause not listed above that compels the removal of the affected MWSBE.

II) The Prime must give the affected MWSBE five (5) business days to respond to the written notice of removal or reduction.

III) The Prime must provide OBO with a copy of the notice to the affected MWSBE along with any objections, a completed Deviation Request form, and an updated MWSBE Utilization Schedule.

IV) The Prime adds any new Non-MWSBE firm to the contract.

OBO will contact the affected MWSBE to confirm their consent or objection to the removal or reduction. The affected MWSBE must provide written consent to its removal or reduction. If the affected MWSBE does not consent, OBO will initiate a mediation meeting between the Prime and the MWSBE to attempt a resolution.

### **Addition**

The Prime must submit a fully detailed and completed Deviation Request form when adding an MWSBE for goal credit to the approved MWSBE participation plan and when adding a Non MWSBE firm to the contract. The Prime must also submit an updated MWSBE Utilization Schedule.

### **Notification of Final Determination**

The Contractor will be notified of the final determination via a letter signed by the OBO Director or Director's Designee. If the determination is to approve the addition, removal or reduction of participation of a goal credit MWSBE firm, the appropriate adjustments will be made to the project in the contract management system.

Within 14 business days of the date of OBO's approval letter to add an MWSBE for goal credit, the Prime must provide OBO with a copy of an executed subcontracting agreement or purchase order agreement with the new MWSBE.



**City of Houston  
Office of Business Opportunity  
DEVIATION REQUEST**



<b>To: The Office of Business Opportunity (OBO) Director</b>
<b>Date:</b>
<b>Prime Contractor:</b>
<b>Project Description:</b>
<b>Contract Number:</b>
<b>COH Project Manager:</b>
<b>OBO Compliance Officer:</b>

<b>Submitted By (Name and Title):</b>		
<b>Company Mailing Address:</b>		
<b>City:</b>	<b>State:</b>	<b>Zip code:</b>
<b>Contact Phone Number:</b>		

Name of Firm Requested to Add	Name of Firm Requested to Reduce/Remove

**List subcontractors below that will be used as a supplier or manufacturer on this contract. (Please note that no more than 50% of the MWSBE goal can be met using suppliers).**


**Summarize why you are requesting a change to your MWSBE participation plan.**


**What area of work will the proposed contractor(s) be performing and the estimated payment to each of them? List subcontractor and dollar value with proposed work.**


**Will the proposed contractor(s) be performing work already assigned to another goal credit participant?    Yes    No**  
**If so, please list the goal credit participant(s) that were assigned the work originally.**


**When will the proposed contractor(s) start working and have you executed a subcontracting agreement with them? (A Copy of the executed agreement must be provided to OBO within 14 days of approval of the deviation request).**


**Signature:**  
**Email to: [OBOcontractcompliance@houstontx.gov](mailto:OBOcontractcompliance@houstontx.gov)**

**THIS FORM IS NOT TO BE USED FOR FEDERALLY FUNDED CONTRACTS**