



## 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 three 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, and a completed online Deviation Request form.

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 completed online Deviation Request form when adding an MWSBE for goal credit to the approved MWSBE participation plan. The Prime must also submit an updated MWSBE Utilization Schedule, if applicable.

### **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. In addition, the Prime must provide an updated MWSBE Utilization Schedule, if applicable.