

RESOLUTION NUMBER R- 304143

DATE OF FINAL PASSAGE OCT 08 2008

A RESOLUTION AUTHORIZING THE EQUAL OPPORTUNITY CONTRACTING PROGRAM – FINAL SCOPE RECOMMENDATIONS.

WHEREAS, at the Public Safety and Neighborhood Services Committee meeting of July 9, 2008, staff presented an Equal Opportunity Contracting Program Update, and final recommendations for improving SCOPE and revisions to Council Policy 300-10; and

WHEREAS, the Committee accepted staff’s recommendations, referred the item to City Council, and recommended that staff continue to work to achieve consensus regarding the few remaining terms of concern to some stakeholders, prior to adoption by Council;

WHEREAS, staff has worked to achieve consensus as directed; NOW THEREFORE,


BE IT RESOLVED, by the Council of the City of San Diego as follows:

1. Staff’s final recommendations are hereby accepted, with the modifications, per Motion of the Council:
 - a. All waivers of SCOPE requirements except those based on an emergency must come before Council for approval;
 - b. The waiver provisions of SCOPE are referred to the Independent Budget Analyst and Equal Opportunity Contracting Office to come back to Public Safety & Neighborhood Services, and to Council for final approval;

and staff is otherwise authorized to implement the approved changes to SCOPe,
without the bonus point element.

- 2. The proposed Council Policy for Equal Opportunity Contracting, No. 800-
15 is hereby adopted.
- 3. The City Clerk is instructed to add Council Policy 800- 15 titled "Equal
Opportunity Contracting" to the Council Policy Manual.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
 Michael P. Calabrese
 Chief Deputy City Attorney

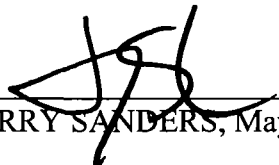
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 Aud.Cert.: N/A
 09/10/08
 09/24/08 REV.
 Or.Dept:EOC
 R-2009-289

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of SEP 22 2008.

ELIZABETH S. MALAND
 City Clerk

By 
 Deputy City Clerk

Approved: 10-8-08
 (date)


 JERRY SANDERS, Mayor

Vetoed: _____
 (date)

 JERRY SANDERS, Mayor

SPECIAL NOTICE

A This project is subject to the requirements of the *Subcontracting Outreach Program* as specified in SCOP 1- 10 of the *Subcontracting Outreach Program* section in this document:

1. Bidder's broad-based solicitation of sub-bids is **mandatory**;
2. Bidder's inclusion of subcontractors at the level identified in this document is **mandatory**; and
3. Bidder's submission of Good Faith Effort documentation is **mandatory**.

A bid will be declared **non-responsive** if:

1. Bidder fails to include subcontractors at the level identified in this document,
2. Bidder fails to submit Good Faith Effort documentation required in this document; or
3. Bidder fails to achieve a minimum of 80 (out of 100) Outreach Effort Indicator Points as defined in these specifications.

B. Pre-Bid Meeting

A pre-bid meeting is scheduled for this project as specified in the Notice Inviting Bids. The purpose of this meeting is to inform prospective bidders of the submittal requirements and provisions relative to the *Subcontracting Outreach Program*. Bidders are strongly encouraged to attend the scheduled pre-bid meeting in order to better understand the Good Faith Effort requirements of the City's *Subcontracting Outreach Program*

NOTE: Attendance at the pre-bid meeting is worth 5 Outreach Effort Indicator Points.

C. Mandatory Subcontractor Participation Level

To be eligible for award of this project, the City of San Diego requires the bidder to subcontract a minimum percentage of the project to any qualified, available subcontractor(s). Failure of the bidder to subcontract this specified minimum percentage will cause the bid to be declared non-responsive. The minimum mandatory subcontracting percentage for this project is specified in the *Subcontracting Outreach Program* section in this document

D. Outreach Efforts Documentation

To be eligible for award of this project, the City of San Diego requires the bidder to submit documentation demonstrating the bidder made a good faith effort to outreach to and include a broad-base of subcontractors as specified in this contract document. Failure of the bidder to submit Outreach Efforts documentation within 3 working days¹ of the bid opening will cause

¹ Please note that once the Contractor/Vendor Registration Program is able to facilitate automatic notices, this requirement will be revised to require submission of Outreach Efforts documentation within 1 working day.

the bid to be declared non-responsive. Failure of the bidder to achieve 80 (out of 100) Outreach Indicator Points will cause the bid to be declared non-responsive.

**CITY OF SAN DIEGO
OFFICE OF THE CITY MANAGER
EQUAL OPPORTUNITY CONTRACTING (EOC)**

SUBCONTRACTING OUTREACH PROGRAM

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SUBCONTRACTING OUTREACH PROGRAM SUMMARY

The Subcontracting Outreach Program applies to City-funded construction contracts in excess of \$100,000. When Federal or State funding sources impose additional requirements, those requirements as defined in the contract documents replace the requirements of this program.

The City of San Diego is committed to maximizing subcontracting opportunities for all qualified and available firms. Bidders should be fully informed of the *Subcontracting Outreach Program* as set forth in this document.

Subcontract Minimum Percentage:

To be eligible for award of this project, the bidder must subcontract a minimum percentage of its bid to qualified available subcontractors, as indicated below. The bidder must list all subcontractors, regardless of amount. Failure to list subcontractors and subcontracting amounts with the bid sufficient to meet or exceed the mandatory subcontracting participation level will cause a bid to be rejected as non-responsive.

MANDATORY Subcontractor Participation Goal
____%

Submit Outreach Documentation:

To be eligible for award of this project, the five (5) apparent low bidders must submit documentation of their subcontractor outreach effort with the bid proposal or provide this documentation within three (3) working days following the close of business on the day bids are opened. Failure to submit required documentation within this time frame will cause a bid to be rejected as non-responsive.

Mail a copy of subcontractor outreach documentation to:

Equal Opportunity Contracting Program
Program Manager
City of San Diego
1200 Third Avenue, 2nd Floor
San Diego, CA 92101

For assistance or further information about the *Subcontracting Outreach Program*, contact the Equal Opportunity Contracting Program at (619) 236-7161.

SUBCONTRACTING OUTREACH PROGRAM

I. General

This program is subject to policies and requirements established by the City of San Diego Equal Opportunity Contracting Program. The City is committed to ensuring full and equitable participation by subcontracting businesses in provision of construction supplies and services on a contractual basis. Bidders are advised to be fully informed of the *Subcontracting Outreach Program* as set forth in this document. Failure to comply with the City's *Subcontracting Outreach Program* will cause a bid to be rejected as non-responsive.

Terms and conditions of this *Subcontracting Outreach Program* apply to City-funded construction projects in excess of \$100,000. At the City's sole discretion, these requirements may be waived in advance on projects deemed inappropriate for subcontracting participation. When State and/or Federal funding sources require affirmative action goals, those goals as defined in the bid and contract documents replace requirements of this *Subcontracting Outreach Program*.

II. Subcontractor Outreach and Participation

This *Subcontracting Outreach Program* requires bidders to make subcontracting opportunities available to a broad base of qualified subcontractors and to achieve a minimum subcontractor participation as identified for this project.

III. Definitions

- A. Disadvantaged Business Enterprise (DBE). A certified business which is at least fifty-one percent (51%) owned and operated by one or more socially and economically disadvantaged individuals and whose management and daily operation is controlled by the qualifying part(ies). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by and the business operated by socially and economically disadvantaged individuals.
- B. Disabled Veteran Business Enterprise (DVBE). A certified business which is at least fifty-one percent (51%) owned and operated by one or more veterans with a service-related disability and whose management and daily business operation is controlled by the qualifying party(ies).
- C. Minority Business Enterprise (MBE). A business registered with the City's Contractor / Vendor Registration system as an MBE, and that is at least fifty-one percent (51%) owned and operated by one or more minority persons. For purposes of this program, the term "minority person" shall mean Hispanic American, African American, Native American, Pacific Islander, or Asian American. For purposes of this program definition "operated by" shall mean that the daily business operations and management of the business are controlled by one or more minority persons.

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- D. **Women Business Enterprise (WBE):** A business registered with the City's Contractor / Vendor Registration System as a WBE, and that is at least fifty-one percent (51%) owned and operated by one or more persons that are non-minority women. For purposes of this program definition, "operated by" shall mean that the daily business operations and management of the business are controlled by one or more women.
- E. **Other Business Enterprise (OBE):** A business which does not otherwise qualify as a Disadvantaged Business Enterprise, a Disabled Veteran Business Enterprise, a Minority Business Enterprise, or a Women Business Enterprise
- F. **Subcontractor Outreach Efforts.** Affirmative steps taken by a bidder prior to bid opening to ensure maximum effort to recruit subcontractors, including Disadvantaged Business Enterprises (DBEs), Disabled Veteran Business Enterprises (DVBEs), Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs), and Other Business Enterprises (OBEs), as sources of supplies, construction and other services whenever possible. Required steps for documenting outreach efforts are outlined in Paragraph VI of this document.
- G. **Subcontract Agreement** between a prime contractor and an individual, firm or corporation for performance of particular portion(s) of work, or for the provision of materials or supplies, for which prime contractor has obligated itself.
- H. **Subcontractor:** An individual, firm or corporation having a direct contract with prime contractor for performance of portion(s) of work to be constructed under the contract, including furnishing of labor, materials or equipment that are incidental to that scope of work.
- I. **Vendor and/or Supplier:** A firm that owns, operates or maintains a store, warehouse or other establishment in which materials or supplies required for performance of the contract are bought, kept in stock and regularly sold to the public in the usual course of business. As its principal business and in its own name, the firm must engage in purchase and sale of products in question. A vendor and/or supplier of bulk items such as steel, cement, stone and petroleum products need not keep such products in stock if it operates distribution equipment.
- J. **Manufacturer:** An individual, firm or corporation operating or maintaining a factory or establishment that produces on the premises materials or supplies obtained by the Contractor.
- K. **Subcontractor Participation:** Disadvantaged Business Enterprises (DBEs), Disabled Veteran Business Enterprises (DVBEs), Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs), and Other Business Enterprises (OBEs) will be recognized as participants in a contract according to the following criteria
 - 1. For credit to be allowed toward respective participation level, on the date bids for the project are opened, all listed DBE and DVBE subcontractors must be certified as defined under Paragraph III, Definitions, Items A and B, and identified in bid

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documents for data collection purposes, and all MBE, WBE, and OBE subcontractors must be registered on the City's Contractor / Vendor Registration System.

2. A subcontractor must perform a commercially useful function for credit to be allowed toward subcontractor participation levels. A subcontractor must be responsible for execution of a distinct element of work and must carry out its responsibility by actually performing, managing and supervising the work.
3. Contractors seeking the recognition of materials and/or supplies obtained from Vendors/Suppliers towards achieving any mandatory subcontracting participation goals, should submit with their bids the B-5(2) page. The B-5(2), at a minimum, should have the name, location (City) and the dollar amount of the Vendors/Suppliers.
4. Contractors will be credited up to sixty percent (60%) of the amount to be paid to the Vendors/Suppliers for such materials/supplies unless vendor manufactures or substantially alters materials/supplies in which case one hundred percent (100%) will be credited.

IV Mandatory Subcontractor Participation Goal

The City has incorporated a mandatory subcontractor participation goal to enhance competition and maximize subcontracting opportunities. Failure on the part of a bidder to represent in its bid that it will subcontract, at a minimum, a percentage of the overall dollar value of its bid that is equal to the Mandatory Subcontractor Participation Goal established for this contract will render that bid as non-responsive. Based on an historical review of subcontractor usage on City projects and availability, Engineering & Capital Projects (in consultation with EOCP) has determined that the mandatory subcontractor participation goal for this project is:

MANDATORY
Subcontractor Participation Goal
____%

Failure to meet this subcontractor participation goal will cause a bid to be rejected as non-responsive.

V. Advisory Participation Levels

The EOCP, in consultation with the City department responsible for issuing this bid, has identified the relevant commodity / industry codes that are applicable to the contract scope of work. Based on current availability data for those relevant commodity / industry codes derived from the City's automated Contractor / Vendor Registration System, EOCP advises that the following advisory levels of subcontract participation should be attainable for Disadvantaged Business Enterprises (DBEs), Disabled Veteran Business Enterprises (DVBEs), Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs), and Other Business Enterprises (OBEs) on this contract:

ADVISORY	
Participation Levels	
____ %DBE	____ %DVBE
____ %MBE	____ %WBE ____ %OBE

These DBE, DVBE, MBE, WBE, and OBE participation levels are advisory only, and do not constitute a basis for determination of non-compliance or disqualification.

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VI. Documentation of Subcontractor Outreach Efforts

All documentation must be submitted by the apparent low five (5) bidders with the bid proposal or within three (3) working days following close of business on the day bids are opened. Failure to submit required documentation within this time frame will render a bid non-responsive. The City may request additional information to validate or clarify, such information must be submitted promptly upon request.

It is the policy of the City of San Diego to provide all subcontractors an equal opportunity to participate in performance of City contracts. Bidders assist the City in implementing this policy by taking reasonable steps to ensure all qualified businesses, including Disadvantaged Business Enterprises (DBEs), Disabled Veteran Business Enterprises (DVBEs), Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs), and Other Business Enterprises (OBEs), have equal opportunity to compete for and participate in City contracts.

Documentation of a bidder's outreach efforts will be reviewed by EOCP according to the indicators listed below to verify that bidder made subcontracting opportunities available to a broad base of qualified subcontractors, negotiated in good faith with interested subcontractors, and did not reject any bid for unlawful discriminatory reasons.

Failure to achieve a minimum of 80 out of 100 points will render a bid non-responsive and will result in its rejection. Indicator points are awarded on a pass/fail basis, i.e., either full or zero points can be achieved for compliance with each item as set forth below.

	Indicator	Points
1.	Achievement of advisory DBE/DVBE/MBE/WBE/OBE subcontractor participation levels	No Points
2.	Pre-Bid Meeting attendance	5 Points
3.	Identification of sufficient subcontracting work	10 Points
4.	Broad-based advertisement	10 Points
5.	Written notice to subcontractors	10 Points
6.	Follow-up to initial solicitations	10 Points
7.	Provision of plans, specifications and requirements	10 Points
8.	Request for assistance from recruitment/placement agencies	10 Points
9.	Documentation of subcontractor negotiation	25 Points
10.	Assistance with bonds, credit lines and insurance	10 Points
	POSSIBLE TOTAL	100 Points

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1	Achievement of advisory DBE/DVBE/MBE/WBE/OBE subcontractor participation levels	No Points
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Failure to meet advisory DBE/DVBE/MBE/WBE/OBE subcontractor participation levels is not a basis for disqualification or determination of non-compliance with this policy.

2.	Pre-bid meeting attendance	5 Points
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Bidder attended pre-bid meeting scheduled by the City to inform all bidders of requirements for subject project. If bidder certifies in writing prior to pre-bid meeting that it was already informed of project requirements, the City may waive requirement for pre-bid meeting attendance.

Required documentation: a) Attend pre-bid meeting and be listed on attendance sheet; or b) Submit letter requesting waiver prior to pre-bid meeting.

3.	Identification of sufficient subcontracting work	10 Points
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Bidder identified and selected specific work items in subject project to be performed by sub-bidders. Bidder subdivided total contract work requirements into smaller portions or quantities to permit maximum active participation.

Required documentation: Content of advertisements (see Indicator 4) and written notices to subcontractors (see Indicator 5) will demonstrate compliance with this objective; alternatively, a copy of the posting of bidder's advertisement of subcontract opportunities on City website page that contains a link to the City's contract bid document will also demonstrate compliance with this objective.

4.	Broad-based advertisement	10 Points
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Not less than ten (10) calendar days prior to bid submittal, bidder conducted an advertising campaign designed to reach all segments of the San Diego community by advertising in either the City website, newspapers, trade association publications, special interest publications, trade journals, community papers or other media. Advertisement requesting bids from subcontractors must be specific, about the project and the types of subcontract work being solicited, and may not be a generic plan holder advertisement provided by the publication. Advertisement must identify phone number, e-mail, and mailing address for the bidder, must be worded to ensure it does not exclude or limit number of potential respondents.

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Required documentation: Submit copies of advertisements and proof of publication dates; in the case of broad-based advertisements posted on the City website page for a particular bid, provide a print out from at least ten days in advance of bid opening of the web pages that reflects the bid document link and the bidder's subcontractor advertisement for that bid. In the alternative, the bidder may submit a completed form certifying that its broad-based advertisement for that specific bid was posted on the City website at least ten days in advance of bid opening, that the City has represented that it would send targeted e-mail alerts to all such subcontractors that have registered with the City's Contractor / Vendor Registration System under the commodity / industry codes that are applicable to that contract, and that those e-mail alerts contain links to the City website page where the bidder's advertisement is posted.

5. Written notice to subcontractors	10 Points
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Not less than ten (10) calendar days prior to bid submittal, bidder provided written notice of its interest in receiving sub-bids on subject contract to business enterprises with an interest in performance of identified work items. Contents of letters or notices must include:

- City of San Diego's project name,
- Name of bidder,
- Areas of work available for subcontracting,
- Contact persons's name and phone number;
- Information on availability of plans and specifications, and
- Bidder's policy concerning assistance to subcontractors in obtaining bonds, credit lines and/or insurance.

Required documentation: Submit copy of each letter or notice sent to subcontractors for each item of work to be performed. If only one master notification, submit letter or notice with list of recipients. Faxed copies must include fax transmittal confirmation slip showing date and time of transmission. Mailed letters must include copies of metered envelopes or certified mail receipts. Alternatively, the bidder may provide either a print out copy from at least ten days in advance of bid opening of the web pages that reflect the bid document link and the bidder's broad-based subcontractor advertisement for that bid (see Indicator 4). Or the bidder may submit a completed form certifying that its broad-based advertisement for that specific bid was posted on the City website at least ten days in advance of bid opening, that the City has represented that it would send targeted e-mail alerts to all such subcontractors that have registered with the City's Contractor / Vendor Registration System under the commodity / industry codes that are applicable to that contract, and that those e-mail alerts contain links to the City website page where the bidder's advertisement is posted.

6. Follow-up to initial solicitations	10 Points
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Bidder followed up initial solicitations of written notice to subcontractors to determine interest in specific portions of project work, answered questions, recorded phone quotes, and recorded subcontractor's interest in bidding on any portion of subject project.

Required documentation: Submit copy of telephone logs including name of caller, name of company called, phone number, contact person, time, date and result of conversation. Telephone logs must be submitted to demonstrate follow-up with all contractors to whom written notices were sent.

7. Provision of plans, specifications and requirements	10 Points
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Bidder provided interested sub-bidders with access to plans, specifications and requirements for subject project.

Required documentation: Content of advertisements (Indicator 4) or written notices to subcontractors (Indicator 5) will demonstrate compliance with this indicator.

8. Request for assistance from recruitment/placement agencies	10 Points
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Not less than fifteen (15) calendar days prior to bid submittal, bidder requested assistance from agencies which recruit and place subcontractors. A list of such agencies is available from EOCP. Other organizations which promote subcontractor activities may also be contacted.

Required documentation. Submit copy of each letter sent to outreach agencies requesting assistance in recruiting subcontractors. Faxed copies must include fax transmittal confirmation slip showing date and time of transmission. Mailed letters must include copies of metered envelopes or certified mail receipts. Content of letters must include City of San Diego's project name, name of bidder, and contact person's name and phone number.

9. Documentation of subcontractor negotiation	25 Points
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Bidder acted in good faith with interested subcontractors and has rejected no bid for other than legitimate business reasons.

Required documentation: Submit. a) Copies of all subcontractor bids or quotes received; and b) Summary sheet organized by work type listing subcontractor company names with bid amounts for

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each work type Identify selected subcontractor for each work type. If bidder elects to use own forces to perform a work type, include bid to show own costs for the work. Copies of bids or quotes from all vendors and suppliers must also be included if those bids are used toward achievement of the mandatory goal and must also be listed on the Summary sheet.

10.	Assistance with bonds, credit lines and insurance	10 Points
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Bidder made efforts to advise and assist interested subcontractors in obtaining bonds, credit lines and insurance required for subject project.

Required documentation: Content of advertisements (Indicator 4) or written notices to subcontractors (Indicator 5) will determine compliance with this objective.

VII. Contract Award

The City reserves the right to reject any and all bids. Award of contract will be to the lowest responsible bidder whose proposal complies with the *Subcontracting Outreach Program* as determined by evaluation of submitted documentation.

VIII. Subcontractor Substitution

The level of listed subcontractor participation shall be maintained for duration of the contract, including any applicable change orders that affect the scope of the subcontracted portion.

- A. Contractor shall request prior approval from the City of San Diego for all substitutions of subcontractors, including any reduction in compensation or scope of work.
- B. *Written request shall provide name of listed subcontractor, name of replacement subcontractor, reason for substitution, work type and dollar amount*
- C. The selection process for a substitute subcontractor shall be evaluated for fairness and outreach efforts
 - 1 Contractor shall submit all documentation of subcontractor outreach efforts to City of San Diego for review by EOCP
 - 2. Post contract award, EOCP shall exercise its discretion to determine whether the circumstances surrounding a change in the subcontract scope, a change in the size of a subcontract, or the timing of a subcontractor substitution, reasonably require new outreach efforts and documentation to be submitted on the part of the prime contractor prior to the selection of a substitute subcontractor.

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3. Evidence of fraud or discrimination in substitution of subcontractors will result in sanctions including assessment of penalty fines, termination of contract or debarment.

D. This section does not replace applicable California Public Contract Code.

IX. Falsification of Sub-Agreement and Fraud

Falsification or misrepresentation of a sub-agreement as to company name, contract amount and/or actual work performed by subcontractor, or any falsification or fraud on the part of bidders in the submission of documentation and forms pursuant to this program, will result in sanctions against the bidder including assessment of penalty fines, termination of contract, or debarment. Instances of falsification or fraud which are indicative of an attempt by bidders to avoid subcontracting with certain categories of subcontractors on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability, shall be referred to the Equal Opportunity Contracting Program's Investigative Unit for possible violations of Article 2, Division 35 of the City Administrative Code, §§ 22.3501 et seq. (Nondiscrimination in Contracting)

X. *Submission of Final Summary Report*

Contractor must submit a *Final Summary Report* including all subcontracting activity during the project to City of San Diego within fifteen (15) calendar days after Final Inspection of contract work. Failure to comply may result in assessment of liquidated damages or withholding of retention. Within 10 business days of submission, EOCP shall be required to review and verify one hundred percent (100%) of subcontract participation reported in the Final Summary Reports required under this Section prior to approval and release of final retainage to the prime contractors. In the event such withheld retainage includes sums that are due to subcontractors for successfully completed work, the EOCP may authorize direct payment by the City of that portion of the withheld retainage directly to the subcontractors.

XI. *Program Waivers*

Every construction contract bid package where City engineers estimate the costs to be in excess of \$100,000 shall be submitted to EOCP for review and concurrence of Mandatory Subcontracting Participation Goals and establishment of Advisory Participation Levels in advance of public release of bid documents.

The intent of this program shall be to maximize the opportunity for subcontract participation to enhance contractor availability and to promote greater capacity development and competition in the construction industry. Accordingly, EOCP, in consultation with the City department issuing the bid, shall only consider issuing formal waivers of this program on a limited contract-by-contract basis when one or more of the following conditions is present:

- A. Based upon an historical analysis of contracts of a similar size and industry type, there are no significant opportunities for subcontractors to perform a commercially useful function on this contract;
- B. Based upon an analysis of prior City contracts of a similar nature and current availability data, there are no subcontractors available to perform a portion of the work;
- C. Based upon an historical analysis of contracts of a similar size and industry type, the nature of available subcontract opportunities will lead to gross inefficiencies that will significantly and adversely affect the overall cost of the project; and/or
- D. EOCP has determined that the best interests of small contractors' capacity development will be served by suspending the Subcontracting Outreach Program, placing the contract in the Minor Construction program or some other small business program, and limiting competition for the prime contract to small construction firms that are enrolled in that program.

Except in the case of emergency contracts, as defined by San Diego Municipal Code section 22.3003, no waiver will be granted without first obtaining City Council approval. In the event EOCP issues a waiver of this program's application to a given contract, that program waiver and the basis for the waiver shall be clearly stated in the bid documents. Moreover, the Director of EOCP shall prepare a justification memorandum that explains the basis and factual findings supporting that waiver decision.

Except in the case of emergency contracts, program waiver justification memoranda shall be submitted to the Mayor and the members of the City Council prior to approval of the waiver. In the case of emergency contracts, such documentation must be submitted to the Mayor and City Council as soon as practically possible, but in no event later than when the emergency contract is being considered for ratification by City Council in accordance with San Diego Municipal Code section 22.3212(c).

XII. *Audits and Reporting*

EOCP shall maintain contract files that contain subcontracting outreach documentation and Final Summary Reports submitted by all bidders for a minimum of three years after the close of each contract. The City's Independent Auditor or some other independent outside auditing firm retained at the discretion of EOCP shall conduct annual random audits of subcontracting outreach documentation as submitted in no less than twenty-five percent (25%) of the construction contracts issued. The Office or auditing firm shall also conduct an annual audit regarding the operation the program. These annual audits shall include the following:

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- A. Independent verification of documentation reflecting bidders' outreach communications and contacts with subcontractors through direct inquiry with listed subcontractors.
- B. Independent verification of bidders' representations of negotiations with subcontractors through direct inquiries with subcontractors.
- C. Independent verification of dollar payments to subcontractors and percentage subcontract participation as represented by bidders in Final Summary Report forms.
- D. A review and summary of EOCP program waivers and the adequacy of justifications provided by EOCP for such waivers.
- E. A review of EOCP implementation and compliance with the Subcontracting Outreach Program standards and procedures.
- F. A cost-benefit analysis of the Subcontracting Outreach Program, including an assessment of administrative costs to the City, bidder compliance costs, and an assessment of the level of subcontract participation with and without application of the program, and recommendations regarding program amendments, program continuation, or program termination.

These findings from these annual audits shall be reported to the Mayor, the City Council, and EOCP. To the extent any discrepancies appear regarding submitted bidder documentation, the findings of the Auditor shall be referred to EOCP for the appropriate enforcement actions for falsification and fraud.

XIII *City Outreach and Educational Efforts*

EOCP is primarily responsible for conducting outreach to potential bidders and subcontractors for City construction projects to explain the operation of this program and various responsibilities under the program. EOCP shall also publish and distribute written materials explaining the various aspects of the program. In addition, EOCP shall conduct contract opportunity fairs and workshops, and also attend trade association meetings and events to encourage all prospective bidders and subcontractors to register on the City's Contractor / Vendor Registration System, and explain how the registration system can provide valuable information about bid and subcontract opportunities.