

DEPARTMENT OF PUBLIC WORKS
BUREAU OF CONTRACT ADMINISTRATION
REPORT NO. 1
May 14, 2025

BPW-2025-0285
ADOPTED BY THE BOARD
PUBLIC WORKS OF THE CITY
of Los Angeles California

MAY 14 2025


Executive Officer
Board of Public Works

C.D. Nos: ALL

DELEGATION OF ADMINISTRATIVE REVIEW OF SUBCONTRACTOR SUBSTITUTION

RECOMMENDATIONS

That the Board:

1. DELEGATE authority to the Inspector of Public Works the approval of the substitution of subcontractors on construction projects awarded by the Board of Public Works based on criteria outlined in Section 10.14. (2) and 10.14(3) of the Los Angeles Administrative Code;
2. RETAIN the authority to conduct a public hearing on a prime contractor's request for substitution of a subcontractor when a listed subcontractor files a written notice of objection to the substitution; and,
3. ADOPT this policy to supersede existing Board Policy No. 41, dated September 23, 1987 regarding the substitution of subcontractors.

TRANSMITTALS

1. Board Policy #41 - Adopted Board Report dated September 30, 1987 regarding the Substitution of Subcontractors

DISCUSSION

The City's Business Inclusion Program (BIP) requires that all respondents to a Request for Bids (RFB), Request for Proposals (RFP), or Request for Qualifications (RFQ) conduct outreach to available MBE/WBE/SBE/EBE/DVBE/OBE firms who could potentially perform a portion of the scope of work(s) as a subcontractor/subconsultant. The intent of this outreach is to ensure that qualified businesses have a fair opportunity to participate as a subcontractor on these projects. In order to be deemed a responsive, responsible bidder, the respondent must meet outreach requirements, and in accordance with Los Angeles Administrative Code 10.14.2, list the subcontractors who will perform work or labor on the project. The subcontractors they list are based on the results of their outreach efforts and ultimately represents their pledged levels of subcontractor participation.

Upon award of a contract, the Bureau of Contract Administration monitors the utilization of the subcontractors/subconsultants pledged in the original bid/proposal. This helps ensure that subcontractors benefit from the opportunity provided to them as pledged in the prime contractor's

original bid/proposal that led to them being deemed a responsive and responsible bidder. It also prevents prime contractors from listing a subcontractor for purposes of their bid proposal but have no intent to do business with.

Allowable Reasons for Subcontractor Substitution

Notwithstanding, there are certain instances where a prime contractor may propose the substitution of a bid-listed subcontractor. Section 10.14.3 of the Los Angeles Administrative Code allows for subcontractor substitution in the following situations:

- a. When the subcontractor listed in the bid after a reasonable opportunity to do so fails or refuses to execute a written contract when such contract, based upon the general terms, conditions, plans and specifications for the project involved or the terms of such subcontractor's written bid, is presented to it by the prime contractor.
- b. When the listed subcontractor becomes bankrupt or insolvent.
- c. When the listed subcontractor fails or refuses to perform its subcontract.
- d. When the listed subcontractor fails or refuses to meet the bond requirements of the prime contractor as set forth in Subsection 4 of this section.
- e. When the contractor demonstrates to the satisfaction of the awarding authority that the subcontractor was listed by inadvertent clerical error.
- f. When the awarding authority determines that work being performed by the listed subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, or the listed subcontractor is substantially delaying or disrupting the progress of the work.
- g. When the listed subcontractor fails to submit an Affirmative Action Plan acceptable to the awarding authority.
- h. When the subcontractor fails to adhere to contract specifications or requirements such as signing a Project Labor Agreement (PLA) Letter of Assent.

Authority for Approval of Substitution of Subcontractors

On September, 30, 1987, the Board of Public Works adopted a policy that delegated the authority of the Awarding Authority to a Public Works Commissioner after conferring with the Inspector of Public Works, the authority to approve the substitution of subcontractors on Public Works contracts, except in cases where the substitution would decrease the MBE/WBE participation or where the Prime contractor claims an inadvertent clerical error on the bid documents.

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This responsibility has historically been assigned to the Commissioner assigned to the Bureau. Bureau staff review the requests for substitution and provide a recommendation to the assigned Commissioner. The Bureau is proposing to delegate the authority of the Awarding Authority to the Inspector of Public Works for subcontractor substitutions that have no protests. This would remove one layer of review for the efficient processing of these requests. Delaying the approval of a subcontractor substitution may result in affecting critical path activities/milestones, create disputes between contractors and subcontractors, inconvenience the public by slowing down the project due to work stoppages, and increasing liability for the City.

The criteria for subcontractor substitution described above is not generally discretionary, but is based on more objective indicators. Therefore, it is reasonable for this administrative review to be performed by the Inspector of Public Works. Appointing the Inspector of Public Works to be the Board's duly authorized officer, to approve and handle these routine matters of substitution of subcontractors, will eliminate unnecessary delays in decision-making and maintain a project's momentum.

Public Hearings

A subcontractor is also permitted to provide written objections to any substitution. In these instances, the Bureau would continue to forward these requests to the Board of Public Works with a recommendation so that a public hearing can be held on the matter.

Therefore, granting the Inspector of Public Works the authority to approve subcontractor substitutions will minimize delays and help to increase productivity. It is recommended that the Board of Public Works adopt this report.

(BCA)


Report Prepared by:

A. Martinez

Angela Martinez, Chief Construction Inspector
General Services Division
213-798-5543

AM:lg

Respectfully submitted



JOHN L. REAMER, JR.
Inspector of Public Works

Delegation of Administrative Review of Subcontractor Substitutions

Carol

Transmittal 1

BPW-2025-0285

CORRECTED REPORT

DEPARTMENT OF PUBLIC WORKS

Taken under advisement

September 23, 1987

BUREAU OF CONTRACT ADMINISTRATION

BUREAU OF ENGINEERING

JOINT REPORT NO. 1

AS Amended *
ADOPTED BY THE BOARD OF
PUBLIC WORKS OF THE CITY
of Los Angeles, California

September 23, 1987

Honorable Board of Public Works

SEP 30 1987

SUBSTITUTION OF SUBCONTRACTORS

RECOMMENDATION:

B. J. McKinney
Secretary

Delegate to a Public Works Commissioner, after conferring with the Inspector of Public Works, the authority to approve the substitution of subcontractors on Public Works contracts, except in cases where the substitution would decrease the MBE/WBE participation or where the prime contractor claims an inadvertent clerical error on the bid documents.

TRANSMITTAL:

Copy of Standard Plan S-610-16, pages 3 through 5.

DISCUSSION:

Standard Plan S-610-16 states that the contractor must make a written request to the Board for all substitutions. These requests are forwarded to the Bureau of Contract Administration to prepare a joint report. Presently, it takes a minimum of 10 working days to notify the subcontractors, prepare the report, and place it on the Board agenda.

In numerous cases, the project is under construction when the request for substitution is received and may result in additional inconvenience for the public and increased liability for the City. The specifications clearly define the conditions under which a subcontractor may be substituted. These conditions are as follows:

1. "When the subcontractor listed in the bid, after a reasonable opportunity to do so, fails or refuses to execute a written contract when such written contract, based upon the general terms, conditions, plans, and specifications for the project involved or the terms of such subcontractor's written bid, is presented to it by the contractor.
2. "When the listed subcontractor becomes bankrupt or insolvent.
3. "When the listed subcontractor fails or refuses to perform its subcontract."

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4. "When the listed sucontractor fails or refuses to meet the bond requirements of the contractor.
5. "When the contractor demonstrates to the satisfaction of the Board that the subcontractor was listed by inadvertent clerical error.
6. "When the engineer determines that work being performed by the listed subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, or the listed subcontractor is substantially delaying or disrupting the progress of the work.
7. "When the listed subcontractor fails to submit an affirmative action plan acceptable to the Board."

* Granting a Public Works Commissioner the authority to approve these substitutions will minimize these delays and increase productivity throughout the City. Said Commissioner shall report any authorized substitution to the Board within 5 working days of his/her approval. The Commissioner shall also notify the Inspector of Public Works of any authorized substitution at the time of approval. The Commissioner may refer such requests for substitution to the Board of Public Works which are deemed to be of particular interest to the Board. Written objections to any substitution shall be determined by the Board of Public Works at a public hearing, pursuant to Section 10.14 of Division 10, Chapter 1, Article 1 of the Administrative Code.

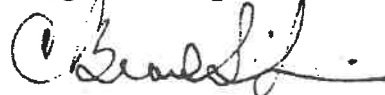
(JT - EB - ND - FAN - LHB)

Report prepared by

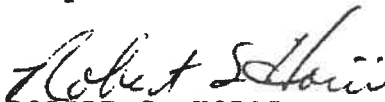
J. Tomasulo

GENERAL SERVICES DIVISION
Edward Bianchi
Division Head
Ext. 53721

Respectfully submitted,



C. BERNARD GILPIN
Inspector of Public Works



ROBERT S. HORII
City Engineer

JT:bc
SubstCon:BR2

G,N,B,T,D,A,File