

Woman and Minority Business Inclusion Plan Scoring and Negotiations Modifications and Amendments

Version: August 2014
FAS/CPCS (Locke)

Who can help?

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Summary

The Inclusion Plan requires a prime consultant actively prove effective recruitment of woman and minority owned businesses (WMBE) into the project. Consider the overall richness and depth of the plan, the potential for the Plan to be successful, whether past performance indicates a commitment to be successful, whether the named team committed and well-integrated.

The Project Manager commitment

When you score, you search for real and meaningful use of WMBE firms. You seek more than just how large the goal is, but you are looking for meaningful use of WMBE firms that won't be easily negotiated away.

When you negotiate the contract, you must preserve the scopes that have a WMBE partner to every extent practicable and reasonable given your business needs. Consider the non-core work that is being proposed with WMBE partners as well, trying to use those scopes if they make sense to your business needs.

When you amend the contract, use a critical eye.

If reducing costs or increasing scope, use is it imperative to reduce the goal?

Can an amendment increase goals?

If you are removing a WMBE firm from the team, is it for one of the reasons allowed?

If you are removing a WMBE firm, is it reasonable to back-fill with another WMBE?

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Scoring the Plan.

Overall look and feel. First look at the overall look and feel of the plan. Is it robust, appears genuine?

1. Reject a plan that has no effort, no response. When you reject a plan as non-responsive, you are also rejecting the entire proposal. If the plan has “Not Applicable” or Zero or is simply not filled out, it is non-responsive.
2. A response that “we will self-perform” is non-responsive. Self-performance is not a substitute for an effort to use WMBE firms. Although a prime might be able to self-perform, SMC 20.42 does not allow that to substitute for a genuine effort to include WMBE firms.

Review the Aspirational WMBE goals.

1. Are the reasonable, robust and built in good faith?
2. Do they balance the use of Minority firms with those of Women? The City expects use of minority firms, not just those owned by white women. Some primes tend to use white-women-owned firms more than they are willing to pull in minority-owned firms. We see this in the data, and we specifically instruct primes to ensure they are not relying on women-owned firms alone.
3. Most A&E plans can arrive at as much as 30% WMBE subcontracting, so view the goals with a reasonably robust expectation.

WMBE Team composition (page 2, WMBE Inclusion Plan) is very important part of your overall impression of the Plan.

1. The first thing you look for is whether the Prime has WMBE firms named for a valuable share and scope of work. Look for ample use of minority firms for meaningful parts of core work. WMBEs should not just be in “non-core” work but part of the core scope.
2. The next thing to look for is clues whether the WMBE firm understands the importance of their work to the team. How to do this?
 - a. The WMBES should have signed the plan on page 2.
 - b. If the individual person and scope makes an individual important (i.e. their resume is in the team resumes provided elsewhere in their solicitation), then the individual should be named in the WMBE Plan on page 2. This evidences that the WMBE and Prime have discussed the importance of that person to the team. It alerts the WMBE that changing the individual out could be a problem so that the WMBE won't be surprised later if this individual is found essential to the WMBE utilization on the project.
3. Non-core work. It is supplemental and will add to their overall score if WMBE firms are also proposed to be part of supplemental value-added functions. While these are more subject

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to negotiations if your budget is limited, look for WMBE firms in the proposed work that is really valuable to your overall business needs.

Past performance proves they mean it. Does their past performance suggest you can depend on them to achieve the WMBE utilization they promise or suggest in their goals? You are looking for your overall impression that their past performance likely proves future success.

Review the Inclusion Strategies (on page 3 of the WMBE Inclusion Plan) with a critical eye to see if they offer specific ideas that make the WMBE's on their team meaningful, that they have long-term partnerships which suggest a real commitment to the firm, and similar. We aren't looking for lots of formal techniques such as "Meet and Greet" events as much as real partnerships that prove an intent to use.

1. An effective mentoring program would be valuable, if they describe bringing in WME firms for long-term coaching and teaming. The program would give the impression of effectiveness, depth and genuine opportunity.
2. Also on page 3, Inclusion Strategies (B) they talked about how they will assure use of WMBE firms for team assignments not yet made or that result from contract or team changes. Look for ways they solicit a variety of WMBE firms early and that they give time to discuss a meaningful role within the proposed WMBE.
 - a. Although Consultants may suggest Meet & Greet events, "After Hour" events, advertising /or sending written notices to WMBE firms, consider those as supplemental and not as strong as actually building partnering relationships with WMBE firms.
 - b. The primes might describe how they try to teach long-term growth, viability and strength, while resolving barriers such as insurance or administrative skill.
 - c. Remember that a prime using good business judgment considers WMBE sub-consultants capabilities, as keeping in mind the use of a WMBE so the WMBE is successful and not just listed to achieve a percentage. It isn't helpful to list a WMBE for work that isn't their specialty or where they are not valuable.

Negotiating the Contract

The City has made a public commitment to preserve the scopes that have a WMBE partner to every extent practicable and reasonable given your business needs. You do not need to keep scopes just because they are WMBE, but be very thoughtful.

If you negotiate away a scope that was committed for a WMBE firm, you should be able to provide a clear reason. . More importantly, put yourself in the shoes of the WMBE (or the Prime trying to accomplish WMBE) as to whether any negotiated change you make would feel respectful of their skills, and that you have a reasonable explanation of why it was important to remove them. Push-back and concerns sometimes happen that can elevate up to the highest executive levels

Consider the non-core work that is being proposed with WMBE partners as well, trying to use those scopes if they make sense to your business needs.

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When you amend the contract once work is underway, use a critical eye.

If reducing costs or increasing scope, use is it imperative to reduce the goal?

Can an amendment increase goals?

If you are removing a WMBE firm from the team, is it for one of the reasons allowed?

If you are removing a WMBE firm, is it reasonable to back-fill with another WMBE? It is not required, but one expects that they at least would make an effort.

Removing a firm.

If you remove a firm, it too needs to be very carefully thought.

There are limited reasons that a named firm on the primes team can be changed, regardless of whether it is a WMBE or otherwise. However, a WMBE has particular thinking and documentation involved to help protect both you as Project Manager, the City, the WMBE, and the Prime from misunderstandings or fear of ill intents.

Use the WMBE Impact Authorization form.

This will allow you to request either an increase/decline in the aspirational goals, or

If you need to remove a WMBE firm from the promise that the Prime has made to the City about their team.

Be very attentive to the reason for the change. Look at the change critically from the perspective of a WMBE firm.

If you remove a firm, it needs to be for the reasons allowed. Those are a contractually-binding list of reasons. Have your WMBE expert/advisor review and sign BEFORE you make the change.

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