



San Francisco Administrative Code CHAPTER 14B

Rules and Regulations

LOCAL BUSINESS ENTERPRISE UTILIZATION AND NON- DISCRIMINATION IN CONTRACTING ORDINANCE

Effective Date: April 3, 2026

The City Administrator adopts these rules and regulations pursuant to Section 14B.1(D) of the Local Business Enterprise Utilization and Non-Discrimination in Contracting Ordinance, codified as Administrative Code Chapter 14B.

Contents

| | |
|---|----|
| Section 1 - General | 6 |
| Rule 1.1 - Definitions..... | 6 |
| Section 2 - Powers and Duties of City Entities | 8 |
| Rule 2.1 - Responsibilities of the Contract Monitoring Division..... | 8 |
| Rule 2.2 - Responsibilities of Contract Awarding Authorities..... | 8 |
| Section 3 - LBE Certification Overview | 10 |
| Section 4 - Micro, Small, or SBA LBE Certifications | 11 |
| Rule 4.1 - Principal Place of Business in San Francisco | 11 |
| Rule 4.2 - Size Criteria | 12 |
| Rule 4.3 - Expertise, Ownership, and Control..... | 13 |
| Section 5 - PUC-LBE Certifications Overview | 16 |
| Rule 5.1 - Principal Place of Business in PUC Water System | 16 |
| Rule 5.2 - Size Criteria | 17 |
| Rule 5.3 - Expertise, Ownership, and Control..... | 18 |
| Section 6 - Nonprofit LBE Certification..... | 18 |
| Rule 6.1 - Principal Place of Business in San Francisco | 18 |
| Rule 6.2 - Size Criteria | 20 |
| Rule 6.3 - Expertise, Ownership, and Control..... | 20 |
| Section 7 - MBE, WBE, and OBE Certification. | 22 |
| Rule 7.1 - MBE, WBE, and OBE Certification..... | 22 |
| Section 8 - Certification Maintenance, Recertification, and Audits..... | 23 |
| Rule 8.1 - Certification Maintenance | 23 |
| Rule 8.2 - Certification Audits | 23 |
| Rule 8.3 - Re-certification | 23 |

| | |
|--|----|
| Rule 8.4 - Procedures for Denial of Application for Certification or Re-certification | 23 |
| Section 9 - Solicitation Design, Procurement, and Bid/Proposal Submittal Phase | 24 |
| Rule 9.1 - “Informal” vs. “Formal” Solicitations..... | 24 |
| Rule 9.2 - Informal Solicitation Procedures: Micro-LBE Set-Aside Program..... | 25 |
| Rule 9.3 - Informal Solicitation Procedures: San Francisco First Program. | 26 |
| Rule 9.4 - Formal Solicitation Procedures..... | 28 |
| Rule 9.5 - Good Faith Outreach to LBEs for Prime Opportunities | 29 |
| Rule 9.6 - Subcontracting Requirements | 29 |
| Rule 9.7 - Prime’s Good Faith Efforts Requirement at Time of Bid or Proposal | 30 |
| Rule 9.8 - Bid, Proposal, and Partnership Requirements for Joint Ventures..... | 33 |
| Section 10 - Waivers..... | 34 |
| Rule 10.1 - Bid discount/rating bonus waivers | 34 |
| Rule 10.2 - Subcontracting waivers | 35 |
| Rule 10.3 - Subsequent Amendments of Waived Contracts | 35 |
| Section 11 - Proposal and Bid Evaluation..... | 36 |
| Rule 11.1 - Contracting Department’s General Evaluation Responsibilities | 36 |
| Rule 11.2 - General Principles for Designing Evaluation Criteria and Minimum Qualifications..... | 36 |
| Rule 11.3 - Principles for Evaluation Criteria for Prequalified Pools | 37 |
| Rule 11.4 - Selection Panel Member Makeup | 38 |
| Rule 11.5 - Selection Panel Deliberation/Discussion | 39 |
| Rule 11.6 - Oral Interviews..... | 39 |
| Section 12 - Bid Discount or Rating Bonus | 40 |
| Rule 12.1 - Additional Considerations for the Applying Rating Bonuses for Joint Venture Professional Services and Architect/Engineering Contracts | 40 |
| Section 13 - Calculating LBE Subcontracting Participation Credit | 41 |
| Rule 13.1 - General Rules..... | 41 |

| | |
|---|----|
| Rule 13.2 - Deletable Bid Items, Allowances, and Contingency Bid Items | 41 |
| Rule 13.3 - Alternates | 41 |
| Rule 13.4 - Common Ownership and Credit Restrictions | 42 |
| Rule 13.5 - Commercially Useful Function..... | 42 |
| Rule 13.6 - LBE Construction Subcontractors Participation Credit | 43 |
| Rule 13.7 - LBE Manufacturers Participation Credit | 43 |
| Rule 13.8 - LBE Suppliers Participation Credit..... | 43 |
| Rule 13.9 - Specially Manufactured Items Credit | 44 |
| Rule 13.10 - LBE Trucking Firms Participation Credit | 45 |
| Rule 13.11 - Construction Equipment Credit..... | 45 |
| Rule 13.12 - Determining LBE subcontracting participation credit for the Subcontractor Neighborhood/ZIP Code | 46 |
| Section 14 - Procedures for Pilot Programs | 46 |
| Rule 14.1 - Pilot Neighborhood LBE Program. | 46 |
| Rule 14.2 - Micro-LBE Trucking Utilization Pilot Program..... | 47 |
| Section 15 - Post-award Administration and Monitoring Procedures | 47 |
| Rule 15.1 - Reporting Responsibilities | 47 |
| Rule 15.2 - Reporting Requirements | 48 |
| Rule 15.3 - Progress Payments and Attestations..... | 50 |
| Rule 15.4 - Procedures for Contract Modifications | 50 |
| Rule 15.5 - Early Release of Retention for LBES..... | 51 |
| <i>Related Administrative Code Sections: 6.22(j)(3)</i> | 51 |
| Section 16 - Capacity Building Programs..... | 51 |
| Rule 16.1 - Citywide Bonding and Financial Assistance Program..... | 51 |
| Rule 16.2 - Mentor-Protégé Program | 52 |
| Section 17 - Enforcement and Correction Actions for Non-Compliance | 53 |

| | |
|---|----|
| Rule 17.1 - Administrative Sanction Procedures | 53 |
| Rule 17.2 - Counts and Allegations..... | 53 |
| Rule 17.3 - Hearing by Commission or Hearing Officer..... | 54 |
| Section 18 - Development Agreements | 55 |
| Rule 18.1 - LBE Utilization Plans for Development Agreements | 56 |
| Rule 18.2 - Advertisement of Opportunities in Development Projects..... | 56 |
| Rule 18.3 - Outreach and Other Assistance to LBEs..... | 57 |
| Rule 18.4 - Data Collection and Reporting..... | 57 |
| Rule 18.5 - Monitoring and Enforcement of Development Projects..... | 58 |

Section 1 - General

Rule 1.1 - Definitions

The definitions listed below are supplements to those set forth in [Section 14B.2](#) of the Administrative Code. Please refer to those definitions when consulting these Rules.

“Affiliation” shall mean when one firm is controlled by another firm or when two firms have an identity of interest including, but not limited to, having shared resources, interests or business dealings.

“Base bid” shall mean the total bid amount submitted by a contractor that represents the cost of the project’s scope of work, excluding all alternate bid items, unless the advertisement or bid specifications explicitly state that certain alternate items will be selected prior to the bid due date. For purposes of determining the Local Business Enterprise (LBE) bid discount, the Base Bid serves as the basis to which the bid discount is applied. Base bid is also the basis for determining whether bidder has demonstrated at time of bid submission how they will meet the required LBE subcontracting participation.

“Broker” shall mean a firm that purchases or arranges for the purchase or sale of goods or materials but does not regularly own, handle, or take physical possession of the items being procured. A broker is not considered a “supplier” for purposes of bid or LBE participation.

“Business day(s)” shall mean any day on which City offices are open for regular business, excluding weekends and official City holidays. When used to specify a time period for taking an action, the count of Business Days includes only those days that meet this definition.

“Day” or “days” shall mean calendar days unless otherwise specified, when referring to a time period within which an action must be taken.

“Harm” means any material and tangible economic detriment, loss, or damage.

“LBE” means Local Business Enterprise certified by the Contract Monitoring Division.

“Prime Level Work” means any portion of work that is listed in the prime’s minimum qualification section in the RFQ/RFP.

“Rules” shall refer to these Rules and Regulations.

“SBA” shall mean a Local Business Enterprise (LBE) certified by the Contract Monitoring Division as meeting certification requirements per Chapter 14B and the largest business size standards for the category of work certified.

“Supplier” shall mean a firm that has the financial and physical capacity to purchase, stock, and regularly sell or distribute goods, materials, and equipment in quantities typical of standard industry practice. To qualify as a Supplier under the Chapter 14B LBE Program, the firm must: maintain a warehouse stocked with inventory within the geographical boundaries of the City or holds verifiable distribution, franchise, or purchasing rights from a manufacturer or primary distributor, providing the firm with direct control over the sale, pricing, and delivery of the goods to end users. This definition is distinct from the City’s general use of the term “supplier.”

Section 2 - Powers and Duties of City Entities

Related Administrative Code Sections: [14B.10 – 14B.14](#)

As set forth in Sections [14B.10 – 14B.14](#) of the Administrative Code, the implementation of Chapter 14B requires coordination and oversight between multiple City entities, including the City Administrator’s Office, the Contract Monitoring Division, Contract Awarding Authorities (i.e. Departments, Divisions, and Commissions that issue contracts), and others.

Rule 2.1 - Responsibilities of the Contract Monitoring Division

Related Administrative Code Sections: [14B.10](#)

The Contract Monitoring Division, a division in the City Administrator’s Office, acts as the primary entity responsible for developing the implementation framework for Chapter 14B and monitoring the overall efficacy of Chapter 14B’s procurement and contracting requirements. In addition to the specific responsibilities articulated in Section [14B.10](#), the Contract Monitoring Division is generally responsible for:

- Maintaining the LBE Certification program
- Providing guidance to Departments on procedures for incorporating the provisions of Chapter 14B into their departmental contract administration structures and processes
- Collecting and analyzing information and data necessary to set subcontracting goals
- Publishing annual and quarterly reports
- Monitoring the administration of contracts to prevent unlawful discrimination and referring suspected cases of discrimination to the Human Rights Commission for further investigation in accordance with Section [14B.9](#)
- Enforcing program requirements and investigating violations per Section [14B.17](#)

Rule 2.2 - Responsibilities of Contract Awarding Authorities

Related Administrative Code Sections: [14B.13](#)

As the entities who directly develop solicitations, award contracts, and manage the contractual obligations between the City and its contractors, Contract Awarding Authorities (“Contracting Departments”) are responsible for incorporating Chapter 14B’s provisions into their procurement planning and contracting operations. In addition to the specific responsibilities articulated in Section [14B.13](#), Departments are generally responsible for:

- Implementing Chapter 14B’s provisions in conformance with the Ordinance, rules and regulations outlined herein, and any supplemental forms and guidance documents that the Contract Monitoring Division issues to support Departments in administering different aspects of Chapter 14B
- Ensuring that the Department’s Contractors are informed of and supported in adhering to obligations related to Chapter 14B
- Actively partnering with CMD to meet the City’s local procurement and contracting goals

- Contracting Departments shall include all relevant CMD attachments with solicitations for bids or proposals. These attachments explain in detail the CMD requirements for the procurement process. Bidders/proposers must complete and submit all applicable CMD Forms at the time of bid/proposal. Contracting Departments shall deliver a complete set of the bid/proposal documents to CMD.

Section 3 - LBE Certification Overview

Related Administrative Code sections: [14B.3](#), [14B.4](#), [14.B5](#), [14B.6](#)

To support the City's goals of local investment through public contracts, the Contract Monitoring Division certifies qualified entities as **Micro-LBEs, Small-LBEs, SBA-LBEs, PUC-LBEs, or Non-Profit LBEs** in accordance with criteria set forth in Sections [14B.3](#), [14B.5](#), and [14B.6](#) of the Administrative Code, which these regulations further expound upon. Initial certification typically lasts three (3) years. In general, all entities seeking certification must be able to demonstrate that they:

1. Are operationally independent from any other business
2. Are continuously in operation
3. Are structured as a for-profit enterprise if seeking Micro, Small, SBA or PUC certification; or are structured as a 501(c)(3) tax exempt Nonprofit Public Benefit Corporation under California Corporations Code Sections 5110-6815 or a Nonprofit Religious Corporation under California Corporations code Sections 9110-9690 if seeking Nonprofit certification
4. Perform a Commercially Useful Function
5. Maintain a principal place of business within the City's jurisdiction (or PUC regional jurisdiction for PUC LBEs)
6. Possess a current San Francisco Business Tax Registration
7. Have been located in and doing business in an area within the City's jurisdiction for at least six months preceding the application for certification
8. Have the necessary licenses, training, or professional experience appropriate to the type of certification sought
9. Are owned or controlled by individuals who reside in the United States or its territories
10. Meet the revenue thresholds established [14B.3\(B\)](#)
11. Are not owned in part or in whole by a full-time City employee

The following regulations further expound upon how certain criteria are assessed for for-profits vs. nonprofits (given the differences in corporate structures) and to entities seeking PUC LBE certification (given the PUC's extended geographical boundaries). See [Section 4](#) for how select criteria apply to entities seeking Micro, Small, or SBA LBE Certification; [Section 5](#) for how select criteria apply to entities seeking PUC LBE Certification; and [Section 6](#) for how select criteria apply to entities seeking Non-profit LBE Certification.

Section 4 - Micro, Small, or SBA LBE Certifications

This section further details how CMD administers criteria related to:

- Operational independence
- Location requirements
- Size standards
- Ownership
- Licensing and expertise
- Size standards

Rule 4.1 - Principal Place of Business in San Francisco

Related Administrative Code Sections: [14B.3\(A\)\(5\)](#), [14B.3\(A\)\(7\)](#),

(a) Principal Place of Business Requirements

All entities seeking Micro, Small, or SBA LBE certification, with the exception of commodities suppliers, must maintain their principal place of business within the geographic boundaries of San Francisco and demonstrate that the majority of their principals, inclusive of all business owners, are based and work a majority of the time in San Francisco. A principal place of business is an independent office from which an entity operates its daily functions, has its own fixtures and equipment, has sufficient space necessary to operate the business or services for which certification is sought, and prominently displays the name of the business unless located in an owner's residence.

A home office also qualifies as a principal place of business if it meets the four conditions below:

1. The residence is situated within the geographical boundaries of the City.
2. The residence is the primary residence of person(s) who own or control the entity.
3. The person(s) who own or control the entity claimed a business deduction on the prior year's income tax return, or for entities started after the last tax return, would qualify for a deduction on the next tax return.
4. None of the entity's owners also maintains an office outside of the residence for a business or entity in the same or related field.

An arrangement for the right to use office space on an "as needed" basis where there is no office exclusively reserved for the firm does not qualify as an "office."

i. Place Requirements for Commodities Suppliers

While Commodity Suppliers do not need their principal place of business to be in San Francisco, commodity suppliers are required to maintain a fixed office and warehouse in San Francisco that is stocked with inventory consistent with their certification. A residential warehouse qualifies only if an owner shows that the warehouse is at their primary residence, as shown on the owner's federal tax returns, voter registration card or other supporting documents, in addition to all other warehouse requirements.

ii. Place Requirements for Truckers

In addition to the principal place of business requirements above, LBE trucking entities must park their registered vehicles and trailers within the geographical boundaries of the City. Parking on the street is insufficient for LBE certification.

(b) Verification of Place of Business

To confirm their principal place of business, certification applicants must:

1. Declare under penalty of perjury that they maintain their principal place of business in San Francisco consistent with Section [14B.3\(A\)\(5\)](#) or [14B.6\(A\)\(5\)](#)
2. Submit documentation demonstrating that the applicant has been located and conducting business in San Francisco for at least 6 months prior to the application date. Acceptable documentation includes an annual San Francisco Business Registration Certificate and federal and state payroll documents (e.g., W-3 and DE-9C forms).
3. Submit a rental agreement and proof of recent payment for the office space/home. If the office space is owned by the business, the business must submit documentation showing ownership.
4. For home offices or residential warehouses, submit an official document indicating that the home is their primary residence, as shown on the owner’s federal tax returns, Voter Registration Card, or other supporting documents.
5. For businesses located in an owner’s residence, substantiate that none of the owners of the business also maintain an office that is located outside of the City for this business activity.
6. Trucking entities must submit a lease agreement for their parking spaces, and proof of payment on the lease. If the parking spaces are owned by the business, it must provide proof of ownership.
7. Allow the Contract Monitoring Division to verify the applicant’s operations through site visits as needed.

Rule 4.2 - Size Criteria

Related Administrative Code Sections: [14B.3\(B\)](#), [14B.3\(A\)\(10\)](#)

(a) Size Requirements

As an Ordinance intended to support small businesses, Section [14B.3](#) of the Administrative Code establishes revenue thresholds to ensure that all entities are appropriately certified by size. An entity’s average gross annual receipts (based on the five fiscal years prior to the time of applying for certification) cannot exceed the thresholds in the table below. The table is current for the January 1, 2025 – December 31, 2029 period. The Controller’s office re-calculates thresholds every five-years based on the Urban Consumer Price Index.

| Category | Micro-LBE | Small-LBE | SBA-LBE |
|---|--------------|--------------|--------------|
| Public works/Construction | \$14,050,000 | \$28,100,000 | \$46,840,000 |
| Specialty Construction | \$7,030,000 | \$14,050,000 | \$23,420,000 |
| Goods/materials/equipment and General Services | \$7,030,000 | \$14,050,000 | \$23,420,000 |
| Trucking | \$2,930,000 | \$5,860,000 | \$11,710,000 |
| Professional Services | \$2,930,000 | \$5,860,000 | \$9,950,000 |
| Legal Services | \$2,930,000 | \$5,860,000 | \$9,950,000 |
| Accounting | \$2,930,000 | \$5,860,000 | \$9,950,000 |
| Architecture/Engineering and Related Services | \$2,930,000 | \$5,860,000 | \$9,950,000 |
| Specialized Design Services | \$2,930,000 | \$5,860,000 | \$9,950,000 |
| Computer Systems Design and Technical Consulting Services | \$2,930,000 | \$5,860,000 | \$9,950,000 |
| Management, Scientific, and Technical Consulting Services | \$2,930,000 | \$5,860,000 | \$9,950,000 |
| Scientific Research and Development Services | \$2,930,000 | \$5,860,000 | \$9,950,000 |
| Advertising and Related Services | \$2,930,000 | \$5,860,000 | \$9,950,000 |
| Other Professional, Scientific, and Technical Services | \$2,930,000 | \$5,860,000 | \$9,950,000 |

(b) Verification of Size

For the Contract Monitoring Division to verify an applicant's revenue levels during its initial certification, applicants must:

1. Submit complete business Federal Income Tax returns for the five most recent years (or Federal Income Tax returns for all years available if the entity has been in operation for less than five years).
2. Submit complete individual Federal income tax returns (including all affiliated companies) for the five most recent years.
3. Submit any additional documentation relating to financial status, including, but not limited to audit and financial statements upon request.

Failure to provide the appropriate documentation may result in the denial of certification. Thereafter, upon recertification or upon request, all LBEs must submit to the Contract Monitoring Division a copy of the business' and owners' most recent annual Federal Income Tax Returns, and any additional financial documents requested to support the continuing certified status of that business. Failure to provide the appropriate documentation may result in suspension of the certification.

Rule 4.3 - Expertise, Ownership, and Control

Related Administrative Code Sections: [14B.3\(A\)\(1\)](#), [14B.3\(A\)\(2\)](#), [14B.3\(A\)\(3\)](#), [14B.3\(A\)\(4\)](#), [14B.3\(A\)\(8\)](#), [14B.3\(A\)\(11\)](#)

(a) Expertise, Ownership, and Control Requirements

1. All business owners shall possess incidents of ownership, such as interest in profit and loss, equal to at least the required ownership interest percentage. They must exercise control of the business, including but not limited to the legal authority to manage business assets, goodwill and the daily

operation of a business consistent with the required ownership interest percentage. All business owners must actively and continuously exercise such authority. A franchise is not permitted.

2. All business owners shall contribute capital, equipment, and/or expertise to the business equal to at least the required ownership percentage.
3. Business owners must fully manage and control their business. In order to maintain operational independence, an LBE firm shall not share equipment, personnel resources, facilities, or financial support with any other firm.
4. Business owners with former employers in the same industry as the applicant firm or who owned firms in the same industry as the applicant firm will have restrictions on their certification for one year. Restriction on applicant firm includes inability of former employer to use that applicant firm for LBE subcontractor participation credit. Additionally, the application firm cannot have a financial or operational affiliation with former employers in the same industry. Business owners with family members who own firms operating in the same or related industry as the applicant firm will be subject to restrictions or additional review as part of their certification.
5. A business owner may not be employed outside of the LBE firm by another firm in the same industry. A business owner may be employed in a different industry only if the certified firm employs dedicated personnel to oversee the daily operations of the certified business while the owner is engaged in their outside employment
6. All LBEs shall possess a valid California license for the type of work it is certified to perform, if such license is required by state law.

i. Requirements for Commodity Suppliers

A Commodity Supplier must have a direct relationship with manufacturers for the materials, equipment, and supplies for which they seek certification, demonstrating that: The Supplier has an agreement with the manufacturer, or the manufacturer's authorized representative, that permits the Supplier to distribute their products; and the Supplier is able to provide a manufacturer's warranty.

(b) Verification of Expertise, Ownership, and Control

To verify, all applicants must:

1. Submit recent invoices or contracts from three clients demonstrating the type of work and expertise for which certification is sought.
2. Submit proof of applicable licenses and/or training, education, and work experience in the area of the certification sought.
 - a. Where the applicant is a business owned by a single person, the owner must have the necessary licenses, training, education, and work experience.
 - b. Where the applicant is a business owned by more than one person, it must submit proof that the business owners, individually or collectively, have the relevant training,

education and work experience in that type of business. If a license is required by state law, at least one business owner must have the appropriate license.

- c. Trucking entities must possess the appropriate motor vehicle registration and Motor Carrier Permit, in its own name, for all trucks and/or trailers to be used in the work.

Section 5 - PUC-LBE Certifications Overview

Related Administrative Code Sections: [14B.5](#)

Businesses headquartered in the PUC Water System Service Area may be certified as Micro or Small PUC LBEs.

PUC-LBEs may only be certified for public works/construction, specialty construction, construction material suppliers, construction equipment rental firms, trucking, and professional services including architectural and engineering for PUC Regional Projects.

LBEs shall have the same status as PUC LBEs for PUC Regional Projects. PUC-LBEs shall not have the status of LBEs for non-PUC Regional Projects, PUC Regional General Services projects, or other City Department Projects.

Rule 5.1 - Principal Place of Business in PUC Water System

Related Administrative Code Sections: [14B.5\(A\)\(4\)](#)

(a) Principal Place of Business Requirements

All entities seeking PUC-LBE certification, with the exception of Commodities Suppliers, must maintain their principal place of business within the geographic boundaries of the PUC Water System Service Area and demonstrate that the majority of their principals (including business owners) are based and work a majority of the time in the PUC Water System Service Area, as defined by the zip codes listed in [Appendix A](#).

A principal place of business is an independent office from which an entity operates its daily functions, has its own fixtures and equipment, has sufficient space necessary to operate the business or services for which certification is sought, and prominently displays the name of the business unless located in an owner's residence.

A home office also qualifies as a principal place of business if it meets the four conditions below:

1. The residence is situated within the geographical boundaries of the PUC Water System Service Area.
2. The residence is the primary residence of person(s) who own or control the entity.
3. The person(s) who own or control the entity claimed a business deduction on the prior year's income tax return, or for entities started after the last tax return, would qualify for a deduction on the next tax return.
4. None of the entity's owners also maintains an office outside of the residence for a business or entity in the same or related field.

All businesses, except for Commodities Suppliers, must demonstrate that the majority of its principals are based and work a majority of the time in the geographical boundaries of the PUC Water System Service. All business owners are considered principals for the purposes of determining principal place of business.

An arrangement for the right to use office space on an "as needed" basis where there is no office

exclusively reserved for the firm does not qualify as an “office.”

i. Place Requirements for Truckers

In addition to the principal place of business requirements above, PUC LBE trucking entities must park their registered vehicles and trailers within the geographical boundaries of the PUC Water System Service Area. Parking on the street is insufficient for certification.

ii. Place Requirements for Commodities Suppliers

While Commodity Suppliers do not need their principal place of business to be in the PUC Water System Service Area, Commodity Suppliers are required to maintain a fixed office and warehouse in the PUC Water System Service Area that is stocked with inventory consistent with their certification. A residential warehouse qualifies only if an owner shows that the warehouse is at their primary residence, as shown on the owner’s federal tax returns, voter registration card or other supporting documents, in addition to all other warehouse requirements.

A PUC-LBE requesting a change to become a San Francisco LBE must be headquartered in San Francisco for at least six months.

(b) Documentation and Verification of Principal Place of Business

To confirm their principal place of business, certification applicants must:

1. Declare under penalty of perjury that they maintain their principal place of business in the PUC Water System Service Area consistent with Section [14B.3\(A\)\(5\)](#) or [14B.6\(A\)\(5\)](#)
2. Submit copies of their annual business license, if applicable
3. Submit a rental agreement and proof of recent payment for the office space/home. If the office space is owned by the business, the business must submit documentation showing ownership.
4. For home offices or residential warehouses, submit an official document indicating that the home is their primary residence, as shown on the owner’s federal tax returns, Voter Registration Card, or other supporting documents.
5. Substantiate that none of the owners of the business also maintain an office that is located outside of the City for this business activity.
6. Trucking entities must submit a lease agreement for their parking spaces, and proof of payment on the lease. If the parking spaces are owned by the business, it must provide proof of ownership.
7. Allow the Contract Monitoring Division to verify the applicant’s operations through site visits as needed.

Rule 5.2 - Size Criteria

Related Administrative Code Sections: [14B.5\(A\)\(2\)](#), [14B.3\(B\)](#)

(a) Size Criteria

The PUC-LBE Size requirements are the same as the [standard LBE certification requirements](#), except that there is no SBA category for PUC LBEs.

(b) Verification of Size Criteria

The PUC-LBE Size verification process is the same as the [standard LBE verification process](#).

Rule 5.3 - Expertise, Ownership, and Control

(a) Expertise, Ownership, and Control requirements

Related Administrative Code Sections: [14B.5\(A\)\(4\)](#)

The PUC-LBE requirements related to expertise, ownership, and control are the same as the [standard LBE certification requirements](#).

(b) Expertise, Ownership, and Control verification

The PUC-LBE expertise, ownership, and control verification process is the same as the [standard LBE certification requirements](#).

Section 6 - Nonprofit LBE Certification

Related Administrative Code Sections: [Section 14B.6](#)

Non-profit LBEs shall have the status of LBEs for all purposes of Chapter 14B, including but not limited to bid discounts/rating bonuses and subcontracting participation credit.

Rule 6.1 - Principal Place of Business in San Francisco

(a) Principal Place of Business Requirements

Related Administrative Code Sections: [14B.6\(5\)](#)

All entities seeking Nonprofit LBE certification, with the exception of Nonprofit Commodities Suppliers, must maintain their principal place of business within the geographic boundaries of San Francisco and demonstrate that the nonprofit entity's paid and volunteer are based in San Francisco. It must pay San Francisco payroll taxes on at least 51% of the total payroll for non-exempt employees.

A principal place of business is an independent office from which an entity operates its daily functions, has its own fixtures and equipment, has sufficient space necessary to operate the nonprofit or services for which certification is sought, and prominently displays the name of the business unless located in an owner's residence.

If a non-profit seeking to be certified has more than one operating location, it must demonstrate that its local office is its principal place of business. It must maintain its principal place of business in a fixed office within the geographic boundaries of the City, where it provides all of the services for which non-profit certification is sought, other than work required to be performed at a job site. A home office also qualifies as a principal place of business if it meets the four conditions below:

1. The residence is situated within the geographical boundaries of the City.
2. The residence is the primary residence of person(s) who own or control the entity.
3. The person(s) who own or control the entity claimed a business deduction on the prior year's income tax return, or for entities started after the last tax return, would qualify for a deduction on the next tax return.
4. None of the entity's owners also maintains an office outside of the residence for a business or entity in the same or related field.

An arrangement for the right to use office space on an "as needed" basis where there is no office exclusively reserved for the firm does not qualify as an "office."

i. Place Requirements for Nonprofit Commodities Suppliers

While Commodity Suppliers do not need their principal place of business to be in San Francisco, Commodity Suppliers are required to maintain a fixed office and warehouse in San Francisco that is stocked with inventory consistent with their certification. A residential warehouse qualifies only if an owner shows that the warehouse is at their primary residence, as shown on the owner's federal tax returns, voter registration card or other supporting documents, in addition to all other warehouse requirements.

ii. Place Requirements for Nonprofit Truckers

In addition to the principal place of business requirements above, LBE trucking entities must park their registered vehicles and trailers within the geographical boundaries of the City. Parking on the street is insufficient for LBE certification.

(b) Verification of Principal Place of Business

To confirm their principal place of business, nonprofit certification applicants must:

1. Declare under penalty of perjury that the nonprofit maintains its principal place of business in the City and County of San Francisco consistent with Section [14B.6](#).
2. Submit documentation demonstrating that it has been located and doing the same type of business activity as the type(s) for which certification is sought in San Francisco for at least six (6) months preceding its application for certification.
3. Submit copies of their annual San Francisco Business Tax Registration Certificate as well as Federal and State Payroll documents (i.e. W-3 and DE-9C forms). For non-profits having more than one operating location, the nonprofit must submit the comparable forms required in those locations.
4. Submit a rental agreement and proof of a recent payment for the office space/home. If the office space is owned by the non-profit, the non-profit must submit documentation showing ownership.
5. For nonprofits located in a residence, substantiate that there is no other office outside of the City for the non-profit activities.

6. Trucking entities must submit a lease agreement for their parking spaces, and proof of payment on the lease. If the parking spaces are owned by the business, it must provide proof of ownership.
7. Allow the Contract Monitoring Division to verify the applicant's operations through site visits as needed.

Rule 6.2 - Size Criteria

(a) Size Requirements

Related Administrative Code Sections: [14B.6\(B\)](#), [14B.3\(B\)](#)

The Nonprofit LBE Size requirements are the same as the [standard LBE certification requirements](#).

(b) Verification of Size

1. A non-profit must annually submit copies of its current filings with State and Federal agencies, including the California Attorney General Form RRF-1, the California Franchise Tax Board Forms 199 and or 109, the California Secretary of State Form SI-100 and the Internal Revenue Service Form 990, including Schedule A. Executive Directors must submit their five most recent individual income tax returns.
2. Additional documentation relating to financial status, including audit reports and financial statements, must be submitted upon request. Failure to provide the appropriate documentation as required under this paragraph may result in suspension of the certification.
3. In addition to the above documents, the nonprofit enterprise shall submit to the CMD a copy of its Articles of Incorporation as filed with the California Secretary of State as well as a copy of the IRS determination letter confirming its exempt status under section 501(c)(3) of the Internal Revenue Code.
4. Gross receipts for non-profits shall include all gifts, grants and other revenues from business activities and investments. Upon request, the non-profit shall submit, as evidence of all gifts, grants and other revenues, a copy of its most recent audited annual financial statement and a copy of its most recent annual report listing sources of charitable contribution, grant funding and other revenues.
5. If a non-profit enterprise loses its federal tax-exempt status, it shall notify CMD immediately. The Director may suspend or revoke its certification.

Rule 6.3 - Expertise, Ownership, and Control

(a) Expertise, Ownership, and Control requirements

Related Administrative Code Sections: [14B.6\(A\)\(1\)](#), [14.B6\(A\)\(2\)](#), [14B.6\(A\)\(4\)](#)

1. The qualified individual must fully manage and control all of the non-profit's certified work activities in the industry in which it is certified. The qualified individual may not be employed outside of the non-profit by any other non-profit or for-profit enterprise in the same industry. A

qualified individual may be employed in a different industry only if the non-profit also employs dedicated personnel to oversee the daily operations of the certified work activities while the qualified individual is engaged in their outside employment.

2. A non-profit must notify CMD within 10 days of any change in the employment status of the qualified individual. Failure to do so may result in the decertification of the nonprofit for a period of one year.

(b) Expertise, Ownership, and Control verification

1. A non-profit must submit invoices or contracts from three clients demonstrating the type of work and expertise for which certification is sought.
2. A non-profit shall demonstrate that it has continuously employed and will continue to employ an individual qualified to perform the type of work for which it seeks certification. A qualified individual possesses a valid California license for the type of work for which certification is sought, if such license is required by State law. Where no such license is required, the qualified individual must have training, education and work experience in the type of work for which certification is sought.

Section 7 - MBE, WBE, and OBE Certification

Rule 7.1 - MBE, WBE, and OBE Certification

Related Administrative Code Sections: [14B.3\(C\)\(1\)](#), [14B.3\(C\)\(2\)](#), [14B.3\(C\)\(3\)](#), [14B.6\(C\)](#)

Businesses seeking LBE certification may also voluntarily indicate whether they are owned and controlled (as defined in Chapter 14B) by a person or persons who is a member of one or more of the groups specified in Section 14B.3(C) for Minority-owned Business Enterprise (MBE) or Women-owned Business Enterprise (WBE) certification. The City does not set goals or other requirements on the basis of race or gender, but such certification may aid in the monitoring and prevention of discrimination in contracting.

To be certified as an MBE or WBE, owners must submit evidence of MBE or WBE status by providing a copy of a driver license, passport, birth certificate or other appropriate documentation. A San Francisco-based business that qualifies to be certified as both MBE and WBE must select to be certified as either MBE or WBE. Applicants seeking PUC LBE certification that qualify to be certified as both MBE and WBE may be certified as both.

Nonprofit entities are not eligible for MBE or WBE certification. All nonprofits and any business that do not provide documentation that could substantiate MBE or WBE status will be certified as Other Business Enterprises (OBEs).

Section 8 - Certification Maintenance, Recertification, and Audits

Rule 8.1 - Certification Maintenance

Related Administrative Code Sections: [14B.4\(A\)](#)

A certified business is required to notify CMD in writing within 10 days of any possible relevant change affecting its certification eligibility, such as size, location, ownership or employment of a qualified individual, control, telephone/fax numbers, email addresses, licenses and/or LBE certification category. Failure to do so may result in suspension or revocation before the certification period expires.

Rule 8.2 - Certification Audits

Related Administrative Code Sections: [14B.4\(A\)](#)

A certification may be audited at any time to ensure eligibility. Certification may be denied, suspended and/or revoked after an audit is performed. A firm that fails to continuously meet the requirements for LBE certification may have their certification denied, suspended, or revoked, even after the deficiency has been cured. Loss of a license will result in immediate suspension until the license is reinstated. A firm will be permitted to contest a suspension within three (3) business days of being notified.

Rule 8.3 - Re-certification

Related Administrative Code Sections: [14B.4\(A\)](#)

Certification renewal is generally granted for a period of three (3) years, or for such shorter times as may be warranted. To be recertified, a business must submit a recertification application in which the business attests to the accuracy and truthfulness of the information provided. The business must also submit all required supporting documents. CMD may request any other document it considers necessary to determine eligibility for recertification.

An LBE prime contractor must be certified at the time of the Bid submission to qualify for a bid discount/rating bonus. An LBE subcontractor must be certified at the time of Bid to be counted towards meeting the LBE subcontracting participation requirement. LBE benefits do not apply to certifications that have been denied, suspended, revoked or are under appeal of the Director's decision to deny, suspend or revoke.

Rule 8.4 - Procedures for Denial of Application for Certification or Re-certification

Related Administrative Code Sections: [14B.4\(B\)](#), [14B.4\(C\)](#)

Pursuant to Sections [14B.4\(C\)](#), for a denial of an application for certification or a nonrenewal upon expiration of the certification term, whenever the Director proposes to deny a certification application of a business, the Director shall notify the applicant or certified business in writing of the basis for the denial. The Director shall provide the applicant or certified business with an opportunity to be heard before a final determination is made. The Director shall notify the business of the date on which the

business will be eligible to reapply for certification. The Director shall require a business to wait at least six months, but not more than two years before reapplying for certification in the same category.

The City Administrator, or a hearing officer appointed by the City Administrator, shall hear appeals challenging the Director's denial. Such appeal must be filed in writing with the City Administrator within three business days following the Director's decision. The City Administrator shall set the procedures for the appeal, or may follow the hearing procedures contained in [Rule 16.3](#). Unless the City Administrator or Hearing Officer so orders, an appeal shall not stay the Director's determination. The City Administrator's or Hearing Officer's decision shall be final and shall be made a public record.

Section 9 - Solicitation Design, Procurement, and Bid/Proposal Submittal Phase

Rule 9.1 - "Informal" vs. "Formal" Solicitations

Related Administrative Code Sections: [14B.7](#), [14B.10](#), [14B.13](#)

Depending on the estimated value of a contract, a contract should follow "informal" or "formal" solicitations procedures. The difference between informal and formal procedures primarily concerns the process and level of competition, including the types of business that can respond to a solicitation, the required outreach and advertisement methods, and the procedural steps for bid submission. Whether bid discounts or subcontracting requirements apply is determined by Chapter 14B, and the type and funding source of the project or contract

Regardless of whether a solicitation was conducted informally or formally, all other procurement and contract requirements of the Municipal Code and City Charter apply to the resulting contract(s), unless explicitly exempted by law or by ordinance.

(a) Informal solicitations

Unless explicitly exempted by another section of the Administrative Code (e.g., [21.15](#) Emergency Procurements, [21.30](#) Software Licenses and Support), Departments must endeavor to informally solicit bids or proposals for contracts that meet both of the following criteria:

1. The anticipated value of the contract is greater than the Delegated Purchasing Amount (see Admin Code Section [21.02](#))
2. The anticipated value of the contract is less than the Threshold Amount (for Public Works or General Services Contracts) or less than the Minimum Competitive Amount (for Commodities or Professional Services).

The City has two types of informal solicitation processes: the Micro LBE Set-Aside program and the San Francisco First (SF First) program, further explained in [Rules 9.2](#) and [9.3](#) respectively.

For anticipated contracts meeting the parameters of the Micro LBE Set-Aside program,

Departments must first attempt to solicit bids or proposals informally through the Micro LBE Set-Aside program to ensure they meet their yearly Micro LBE Set-Aside requirements under Section [14B.7\(K\)](#).

If bids or proposals cannot be feasibly solicited as a Set-Aside, or if the contract cannot be awarded to a Micro LBE despite attempts to solicit as a Set-Aside, the Contracting Department shall provide CMD with a written explanation why the contract was not set aside or why it was not awarded to a Micro-LBE.

If the Contract cannot be procured as a Micro LBE Set-Aside, then the Contract must be solicited through the San Francisco First program as provided in Section [14B.7\(L\)](#).

(b) Formal solicitations

Unless explicitly exempted by another section of the Administrative Code (e.g. [21.15](#) Emergency Procurements, [21.30](#) Software Licenses and Support), Departments must endeavor to formally solicit bids or proposals for contracts that meet either of the following criteria:

1. The anticipated value of the contract is greater than the Minimum Competitive Amount for Professional Services and Commodities contracts.
2. The anticipated value of the contract is greater than the Threshold Amount for Public Works and General Services contracts.

Formal solicitation procedures are further detailed in [Rule 9.4](#).

Rule 9.2 - Informal Solicitation Procedures: Micro-LBE Set-Aside Program

Related Administrative Code Sections: [14B.7\(K\)](#)

In addition to any procurement requirements mandated by law or City processes (e.g. acquiring any necessary relevant waivers, using the appropriate solicitation template, etc.), Departments should incorporate the following principles into their informal solicitation processes when planning for or conducting Micro LBE set-asides.

1. Departmental Set-Aside Goals
 - a. Set-aside award to Micro-LBEs not less than 50% of public works Contracts estimated to cost between the Delegated Purchasing Amount and the Threshold Amount;
 - b. Set-aside award to Micro-LBEs not less than 25% of Contracts other than public works construction Contracts estimated to cost between the Delegated Purchasing Amount and the Minimum Competitive Amount;
2. Procurement Planning

At the beginning of each fiscal year, each Contract Awarding Authority shall meet with CMD to determine all Contracts that are eligible for the Micro-LBE Set- Aside Program. This information shall be updated quarterly by each Contract Awarding Authority.

3. Competitive Solicitations for Micro LBE Set-Asides

If (i) fewer than two Micro–LBEs submit Bids, or (ii) the Contract Awarding Authority determines that the Contract would not be awarded at a fair market price, then the Contract Awarding Authority, may reject all Bids and rebid the Contract without restriction to Micro-LBEs.

4. Exemptions to Other 14B Requirements for Micro LBE Set-Asides

The Bid discount provisions of Section [14B.7\(D\) and \(E\)](#) do not apply to Micro-LBE Set-Aside contracts since only Micro-LBEs are eligible to bid on Micro LBE Set-Asides. The Bid discount provisions of Section [14.B.22\(d\)\(1\) and 14.B.22\(d\)\(2\)](#) do apply to Micro-LBE Set-Aside contracts.

Contracts that are set-aside for award to Micro–LBEs shall not be subject to subcontracting participation requirements under [Section 14B.8](#).

Micro–LBEs that subcontract any portion of a set-aside contract should subcontract to businesses certified as Micro–LBEs, to the maximum extent possible. Micro–LBEs that subcontract any portion of a set-aside contract must serve a commercially useful function based on the Contract's scope of work, and must perform at least 25% of the contract work.

5. Department Reports on Micro LBE Set-Asides

Contract Awarding Authorities shall annually report on its compliance towards meeting the Micro-LBE Set Aside requirements as provided in Section [14B.7\(K\)\(3\)](#).

Rule 9.3 - Informal Solicitation Procedures: San Francisco First Program

Related Administrative Code Sections: [14B.7\(L\)](#)

In addition to any procurement requirements mandated by law or City processes (e.g. acquiring any necessary relevant waivers, using the appropriate solicitation template, etc.), Contracting Departments should incorporate the following principles into their informal solicitation processes when planning for or conducting a San Francisco First solicitation.

1. Applicability of the San Francisco First Program

The San Francisco First Program applies to the following informal contracts:

- Public works and general services Contracts not set-aside for Micro-LBEs under Section [14B.7\(K\)](#), the estimated cost of which exceeds the Delegated Purchasing Amount but is less than the Threshold Amount; and

- Professional services, architect/engineering, and commodities Contracts not aside for Micro-LBEs under Section [14B.7\(K\)](#), the estimated cost of which exceeds the Delegated Purchasing Amount but is less than the Minimum Competitive Amount.

2. Procedures

- For each informal contract, Departments must submit an intake through the 14B Sub Participation Intake System. If there are sufficient LBEs and subcontracting opportunities, CMD will set a LBE subcontracting participation requirement on contracts estimated to cost more than 50% of the Threshold Amount or Minimum Competitive Amount. Departments must submit the intake as soon as the scope of work and estimated contract value are known, and as early as practicable. If an LBE subcontracting participation is required, the requirement must be included in the solicitation and the resulting contract, and CMD must review the bids to confirm that the requirement has been met prior to contract award.
- Regardless of whether a solicitation is issued, Departments must submit a 14B sub participation waiver request, if the estimated contract amount is more than 50% of the Threshold Amount or Minimum Competitive Amount, when there are insufficient LBEs or subcontracting opportunities. If a solicitation is planned, Departments must submit the waiver request prior to the solicitation (“pre-solicitation waiver”), followed by a corresponding waiver for each contract prior to contract execution (a “post solicitation waiver”). If no solicitation is issued, Departments must submit a “No Solicitation” waiver.

Departments should follow the recommended efforts to obtain LBE bids, as required by Section [14B.7\(A\)](#). For informal contracts, Departments should conduct outreach to all appropriately certified LBEs to solicit their interest in the opportunity.

- Departments must attempt to obtain at least three bids from Micro or Small LBEs.
- Work with CMD to apply the Bid discount/rating bonus at each stage of the selection process.

3. Memo Documenting SF First Outcome

If the Contracting Awarding Authority is unable to obtain at least three quotes, bids, or proposals from Micro or Small LBEs, the Contract Awarding Authority shall prepare a written finding explaining why at least three bids, quotes, or proposals from LBEs were not obtained. The written justification should include the following:

- The outreach efforts performed by the Contract Awarding Authority including the specific LBE categories outreached to and the number of Micro and/or Small LBEs solicited; and

- A summary of the responses received from Micro and/or Small LBEs.

4. Modifications to Contracts Awarded through the SF First Program

Contracts estimated to cost more than 50% of the Threshold Amount or Minimum Competitive Amount need a LBE subcontracting participation requirement or a LBE sub participation waiver.

If at time of award, a contract was estimated to cost 50% or less than the Threshold Amount or the Minimum Competitive amount, and the Department subsequently seeks to amend the contract such that the new total contract amount exceeds 50% of the Threshold Amount or Minimum Competitive Amount, the Department must submit a LBE subcontracting participation requirement intake. Where sufficient LBE availability and subcontracting opportunities exist within the amended contract amount, CMD will set a LBE subcontracting participation requirement. Where LBE availability or opportunities do not exist, the Department must submit a waiver request.

Contract Awarding Authorities shall consult with CMD prior to awarding any Contract solicited through the above process where the bid/proposal resulted in the contract significantly exceeding the Threshold Amount for public works contracts, or the Minimum Competitive Amount for professional services, general services, architect/engineering and commodities contracts.

Rule 9.4 - Formal Solicitation Procedures

Related Administrative Code Sections: [14B.7](#), [14B.8](#), [14B.13](#)

In addition to any procurement requirements mandated by law or City processes (e.g. acquiring any necessary relevant waivers, using the appropriate solicitation template, etc.), Departments should incorporate the following into their formal solicitation processes when planning for or conducting a formal solicitation.

1. Submit the 14B sub participation intake as soon as the scope of work and estimated contract value are known, and as early as practicable. Include the 14B LBE sub participation percentage information in the solicitation documents.
2. If the Department is seeking a waiver from the 14B Discount and/or the 14B subcontracting participation requirement, the waiver must be submitted as early as possible in the process, and before the solicitation is advertised. See the (section on waivers) for additional details.
3. Provide the draft RFQ/RFP, Evaluation Criteria, Oral Interview questions to CMD for review to ensure correct 14B information and small business inclusivity and fairness.

No less than ten (10) business days prior to advertisement, Contract Awarding Authority shall submit the draft RFQ/P and/or Request for Bids including scope of work, evaluation criteria,

and cost estimate evaluation to CMD so that appropriate LBE subcontracting participation requirements may be determined;

4. Comply with all Awarding Authority “Good Faith” efforts to obtain LBE Bids as provided in Section [14B.7\(A\)](#) and further detailed in [Rule 9.5](#).
5. Work with CMD to apply the Bid discount/rating bonus at each stage of the selection process.

Rule 9.5 - Good Faith Outreach to LBEs for Prime Opportunities

Related Administrative Code Sections: [14B.7\(A\)](#)

Good Faith Outreach requirements apply to all informal and formal solicitations.

Comply with all Awarding Authority “Good Faith” efforts to obtain LBE Bids as provided in Section [14B.7\(A\)](#), copied below for reference as follows:

- Arrange Contracts by size and type of work to maximize opportunities for LBEs;
- Consult with the Director on dividing contracts into smaller contracts;
- Outreach to all LBEs with appropriate certification to solicit their interest in the contracting opportunity;
- Encourage LBEs to attend pre-bid meetings;
- Post contracting opportunities on the department, OCA, and/or other centralized City website with adequate lead time for LBEs to effectively respond to the opportunity;
- Use the services of community and contractors’ groups to assist in the recruitment of LBEs; Provide all Bidders, including LBEs access to adequate information about the plans, specifications and requirements of the proposed Contract;

Rule 9.6 - Subcontracting Requirements

Related Administrative Code Sections: [14B.8\(A\)](#), [14B.8\(C\)](#)

(a) Applicability of Requirement

If an anticipated contract meets either of the following criteria, it is subject to subcontracting requirements. Departments are required to work with CMD to establish subcontracting requirements:

- The anticipated contract value is greater than 50% of the Minimum Competitive Amount, for Commodities or Professional Services contracts.
- The anticipated contract values is greater than 50% of the Threshold Amount, for Public Works and general services contracts.

(b) Requirement

Except where CMD has set a separate Micro-LBE, Small-LBE, and/or SBA-LBE subcontractor participation requirement or where CMD determines there are not sufficient Small and Micro-LBEs available to perform the subcontracting opportunities presented by the scope of the proposed Contract, bidders must list and use only Small and Micro-LBEs to satisfy the LBE subcontracting participation requirements set by CMD.

(c) Procedures for Determining LBE Subcontracting Requirement

For CMD to set the LBE subcontracting requirement, Contract Awarding Authority shall provide: a breakdown of the Engineer’s Estimate or scope of work into CMD categories; a list of specialized work, specialized equipment, or specially manufactured items; and where applicable, a breakdown of deletable items, mobilization/demobilization, and/or alternate bid items.

The Director shall set LBE subcontracting participation requirements based on the extent of subcontracting opportunities presented by the scope of the proposed contract; the size of the contract; the availability and capacity of LBE subcontractors certified to provide goods and services required under the proposed contract; and the availability and capacity of LBEs in each size category. Pursuant to Section [14.B.8\(A\)](#), Director may set separate LBE subcontracting requirements where appropriate.

For each Contract where CMD sets an overall LBE subcontracting requirement at less than 20%, CMD in conjunction with the Contracting Department shall prepare a written explanation of the details justifying the LBE subcontracting requirement set.

(d) Compliance During the Solicitation Phase

Bid must demonstrate that certified LBE subcontractor commitments equal or exceed the required percentage of the total contract value.

Where an LBE is certified in more than one size category, the LBE credit will be based on the size category of the service the LBE was listed to perform.

Bids that do not meet the LBE subcontracting participation requirements set under [14B.8\(A\)](#) will be rejected as non-responsive unless the Director finds that the Bidder diligently undertook all the good faith efforts required by this Chapter (or that the Bidder is exempt from good faith efforts requirements under Section [14B.8\(B\)](#)) and that the failure to meet the subcontracting participation requirements resulted from an excusable error. The Director has the sole authority in determining whether the error is excusable.

Rule 9.7 - Prime’s Good Faith Efforts Requirement at Time of Bid or Proposal

Related Administrative Code Sections: [14B.8\(B\)](#), [14B.8\(C\)](#), [14B.8\(D\)](#), [14B.8\(E\)](#), [14B.19](#)

(a) Applicability of Requirement

For solicitations and contracts where subcontracting requirements apply, all bidders or proposers must undertake adequate good faith efforts to select LBE subcontractors as required by Section [14B.8\(D\)](#). The following rule describes actions *prime bidders and prime proposers* must take to demonstrate good faith efforts; for good faith effort requirements for Departmental staff, see [Rule 9.5](#) instead.

(b) Requirements during Prime Bidding/Prime Proposal Phase

Bidders and proposers can satisfy the Section [14B.8\(D\)](#) good faith efforts requirement by meeting either of the following three options:

1. **Exceed LBE subcontracting participation requirement by at least 35%**. As provided in Section [14B.8\(B\)](#), if LBE subcontracting participation in the submitted bid or proposal exceeds the LBE subcontracting participation requirement set in the Contract by at least 35%, the bidder or proposer is excused from conducting or documenting its good faith efforts. For the purpose of calculating whether the bidder/proposer exceeded the LBE subcontracting participation requirement by 35%, the percentage in excess of the minimum LBE subcontracting participation requirement shall be determined as the sum of all participation by Small- and Micro-LBE prime contractors, Small- and Micro-LBE joint venture partners, and Small- and Micro- LBE subcontractors and subconsultants. Participation by SBA-LBE subcontractors and subconsultants shall be counted if under subsection [14B\(8\)\(A\)](#) where the Director permitted use of SBA-LBE firms to satisfy the Contract’s subcontracting participation requirement or a separate SBA-LBE subcontracting participation requirement was set.
2. **Obtain 50 or more points on CMD Form 2B**. A bidder/proposer must obtain at least fifty (50) points to achieve adequate good faith outreach. A Bidder who fails to achieve adequate good faith outreach will be declared non-responsive, and the Bid will be rejected. Points will be allocated as follows:
 - a. **Contacting LBE firms to solicit their interest**. A Bidder who contacts LBE firms certified in the trades or work categories relevant to the bid/proposal, not less than 10 calendar days prior to due date of the bid/proposal, will receive up to 10 points: 1 point for each LBE firm contacted with information about the plans, specifications, and requirements for the services required by the City. If the City gives public notice of the project less than 15 calendar days prior to the bid/proposal due date, the allocation of points above still applies, except that the bidder/proposer may contact those LBE firms *less* than 10 calendar days prior to the due date of the bids/proposals.
 - b. **Following up with interested LBE firms**. A bidder/proposer who performs follow-up contact with interested LBEs and negotiates in good faith with interested LBEs will receive 10 points for each interested LBE. An “interested LBE” means an LBE firm that expresses an interest in being a subcontractor or subconsultant to the bidder/proposer. The bidder/proposer must include the following documentation: (i) Name of interested LBE; (ii) copies of all e-mail correspondence following the initial contact; (iii) statement

of the reason(s) why interested LBE was not selected or statement or reason(s) why interested LBE was selected.

- c. **Selection of interested LBE firms.** A bidder/proposer who lists interested LBEs on the bid/proposal will receive 30 points for each interested LBE listed. The bidder/proposer must include the following documentation: (i) Copies of all e-mail correspondence between the bidder/proposer and the interested LBE, including but not limited to the interested LBE's proposed quotes/rates; (ii) statement of the reasons for the selection of the interested LBE ; and (iii) an e-mail showing that the listed LBE has been notified that the LBE has been listed for the contract, and the scope of work and dollar value/percentage of the LBE's participation.

3. **Include Micro-LBE Firms.** A Bidder may achieve adequate good faith outreach by listing at least one Micro-LBE firm in their Bid that the Bidder had not listed in their Bids for the Bidder's prior five (5) awarded contracts with the City. For purposes of determining adequate good faith outreach only, "awarded contract" means any bid or proposal for which the City has issued a notification of award. If the Bidder has fewer than five (5) awarded contracts with the City, the Bidder may achieve adequate good faith outreach by listing at least one Micro-LBE firm that the Bidder had not listed in any of their prior awarded contracts with the City.

(c) Additional Requirements for Design-Build or CM/GC Projects during project lifecycle

Because procurements are often conducted on an ongoing basis for Design-Build and CM/GC projects, Prime Contractors, General Contractors, and Construction Managers, are also expected to conduct Good Faith Outreach for the procurement of their trade packages throughout the duration of their project.

Pursuant to Section [14B.19](#), the awarded prime contractor shall perform the Good Faith Outreach steps below for the procurement of their trade packages.

- a. **Advertise for trade subcontractors.** The awarded prime contractor must advertise for Trade Subcontractors. The advertisement must include, at a minimum, the prequalification minimum qualifications, brief description of the scope of work, the LBE participation requirements (if applicable), and bid due date.
- b. **Contacting LBE firms to solicit their interest.** The awarded prime contractor must contact those LBE firms certified in the trades or work categories identified in the scope of work.
- c. **Hold a pre-bid/pre-proposal meeting.** The awarded prime contractor shall hold a pre-bid/pre-proposal meeting.

(d) Compliance

Bids and proposals that do not meet the good faith efforts requirements set under 14B.8 will

be rejected as non-responsive unless the Director finds that the Bidder met the LBE subcontracting participation requirement required by this Chapter and that the failure to meet the good faith efforts requirements resulted from an excusable error. Unless an excusable error is found by the Director, a Bid that fails to document compliance with this requirement will be rejected as non-responsive. The Director has the sole authority in determining whether the error is excusable.

For Design-Build or CM/GC projects, the awarded prime who fails to perform the good faith outreach steps for any trade package will be declared to have not met the good faith outreach requirements. In this scenario, the prime will be required to stop the current selection process and redo the entire good faith outreach process.

Rule 9.8 - Bid, Proposal, and Partnership Requirements for Joint Ventures

Related Administrative Code Sections: [14B.7\(D\)](#), [14B.7\(F\)](#), [14B.8\(B\)](#), [14B.13\(C\)](#), [14B.21](#)

Joint Ventures, as defined in Chapter [14B.2](#), are one pathway for Small and Micro LBE to gain greater exposure to and experience in large, high-value projects.

(a) General Roles and Responsibilities in Joint Ventures

As Joint Ventures are composed of multiple entities, each joint venture partner must clearly define the portion of the work it will perform during the project in the CMD Joint Venture Form (see [Rule 9.8\(c\)](#)). The work performed by the LBE partner(s) must be the type of work the LBE(s) performs in the normal course of its business and is certified by CMD to perform. The CMD Joint Venture Form must specify which tasks will be performed by each individual joint venture partner.

To ensure that joint ventures are not used as "pass through" mechanisms, each member of the joint venture must perform a "commercially useful function," as that term is defined by Section [14B.2](#) of the Ordinance. An LBE that relies on the resources and personnel of a non-LBE firm will not be deemed to perform a "commercially useful function."

The following actions are prohibited:

- The non-LBE partner performing work for which the LBE partner is responsible.
- Leasing of equipment or property by the LBE partner from the non-LBE partner.
- Hiring of the non-LBE partner's employees by the LBE partner.

(b) Role of the LBE partner

The LBE partner must share in the ownership, control, management responsibilities, risks, and profits of the joint venture in proportion to its level of participation in the project.

The LBE partner must perform work that is commensurate with its experience and demonstrate that their proposed scope of work would be commensurate with that of prime level work.

The LBE partner must use its own employees to perform its portion of the project and have adequate staffing necessary to perform its share of control of the project.

(c) Documentation Requirements

The joint venture must submit the CMD Joint Venture Form. A joint venture must also submit a joint venture management plan and a joint venture agreement, including but not limited to the following:

1. A detailed explanation of the financial contribution of each partner.
2. A list of the personnel used by each partner.
3. A detailed breakdown of the specific duties and responsibilities of each partner (include an organizational chart).
4. An explanation of how the profits and losses will be distributed.
5. Any management or incentive fees available for any one of the partners.
6. A written statement on how decisions will be made for work distribution between and among the partners and subcontractors.
7. The location of the joint venture office.

Section 10 - Waivers

Unless exempted by law, Departments should apply any relevant requirements of Chapter 14B to all City-funded Chapter 21 and Chapter 6 contracts based on the parameters and procedures established through the Administrative Code and through these Rules and Regulations. However, under limited circumstances, Departments may seek waivers for two of Chapter 14B’s requirements: (a) The LBE bid discount/rating bonus; and (b) the LBE subcontracting participation requirement.

Rule 10.1 - Bid discount/rating bonus waivers

Related Administrative Code Sections: [14B.7\(J\)](#)

See Rules [11.7](#), [11.8](#), and [13.1](#) for how bid discounts and rating bonuses are to be administered for different types of projects.

As provided in Section [14B.7\(J\)](#), the LBE bid discount or rating bonus may be waived under the following circumstances:

1. The needed goods or services are available only from a sole source.

2. For Contracts in excess of \$5,000,000, sufficient qualified LBEs capable of providing the needed goods and services are not available, or the application of the LBE Discount will result in significant additional costs to the City.

Departments seeking a waiver of the Bid Discount or LBE subcontracting participation requirement must adhere to the following procedures:

- The waiver request must be submitted in writing at least ten business days prior to the advertisement or solicitation of Bids or Proposals.
- The waiver request must be submitted on a CMD-approved waiver form or via workflow. The form must be filled out completely and submitted with the justification for the waiver request.
- CMD shall respond to new waiver requests within ten business days after receipt of the request. If CMD has not responded to the Contract Awarding Authority within ten business days, the Contract Awarding Authority may advertise or solicit the Bid.

Rule 10.2 - Subcontracting waivers

Related Administrative Code Sections: [14B.8\(A\)](#)

As provided in [14.B8\(A\)](#), the LBE subcontracting participation requirements may be waived under the following circumstances:

1. Lack of Subcontracting Opportunities: The work is not divisible for subcontracting or cannot otherwise be subcontracted out for other reasons.
2. Lack of Sufficient LBEs: There is not an adequate number of LBEs who can perform the work even if it could be subcontracted out. Use the LBE Directory to determine if adequate number of LBEs exist.

Departments seeking a waiver of the Bid Discount or LBE subcontracting participation requirement must submit the completed waiver request through the established workflow.

Where a contract subject to Chapter 14B will be procured through a competitive solicitation, a Pre-Solicitation waiver must be submitted as early as practicable and prior to the issuance of the solicitation. Where a contract will be awarded without a competitive solicitation, a No Solicitation waiver request must be submitted as early as practicable and prior to execution of the contract.

A Post Solicitation waiver request must be submitted for each contract resulting from a solicitation. The waiver must be submitted as early as practicable and prior to execution of the contract.

If a contract with a waiver is amended, a request to modify the Post Solicitation Waiver or the No Solicitation Waiver must be timely submitted prior to amendment.

Rule 10.3 - Subsequent Amendments of Waived Contracts

Related Administrative Code Sections: [14B.13\(A\)\(12\)](#)

Requests to waive the LBE subcontracting participation requirement is based upon the specific scope of work, contract value, and supporting documentation presented before contract award.

If the contract value is subsequently increased or decreased for any reason, the department shall submit a request to modify the approved waiver. The modification request shall be submitted prior to execution of the amendment. CMD shall assess whether the original waiver determination remains appropriate in light of the revised contract value or scope. CMD may reaffirm the existing waiver or impose an LBE subcontracting participation requirement consistent with the revised contract amount or scope.

The Director shall intervene to correct any discriminatory practices if they find that the department is attempting to circumvent the LBE subcontracting requirements of Chapter 14B through the amendment.

Section 11 - Proposal and Bid Evaluation

Related Administrative Code Sections: [14B.10\(B\)\(6\)](#)

CMD may intervene to ensure a fair and transparent City contracting process. CMD shall take necessary steps to prevent contracting practices that arbitrarily disadvantage or discriminate against LBEs or any other business or person on any basis prohibited by law, including, without limitation, intervening in the selection process in the event of actual discrimination or material harm. CMD may also review and issue recommendations to ensure that the minimum qualifications, evaluation criteria, scoring methodologies, and interviews do not inadvertently disadvantage qualified LBEs in competing for City contracts.

Rule 11.1 - Contracting Department's General Evaluation Responsibilities

Related Administrative Code Sections: [14B.7\(C\)](#), [14B.10\(B\)\(6\)](#)

Contract Awarding Authorities shall submit procurement documents to CMD for review as early as practicable once they are in draft form and sufficiently developed. Submission shall occur prior to advertisement or release of the solicitation and shall include: the draft RFQ, RFP, or other solicitation document; the scope of work; the engineer's estimate or project budget breakdown; any minimum qualifications; and the proposed evaluation criteria and selection procedures

Contract Awarding Authorities shall also provide CMD with timely advance notice of the anticipated selection schedule, including the dates, times, and locations of proposal deadlines, interviews, evaluation meetings, and other selection milestones . Notice shall be provided sufficiently in advance to allow CMD meaningful opportunity to review, and where appropriate, monitor the process.

Rule 11.2 - General Principles for Designing Evaluation Criteria and Minimum

Qualifications

Related Administrative Code Sections: [14B.10\(B\)\(6\)](#)

For Contracts let using Best Value, Construction Manager/General Contractor (CM/GC) and Design Build alternative delivery systems, CMD recommends Contract Awarding Authority to include selection criteria related to the bidder/proposer's plan and past experience in meeting LBE subcontracting requirements.

Rule 11.3 - Principles for Evaluation Criteria for Prequalified Pools

Related Administrative Code Sections: [14B.10\(B\)\(6\)](#)

Prequalified pools have unique evaluation considerations because it may be necessary to conduct multiple evaluations over the lifetime of the pool – once at the outset for the initial creation of the pool, and then when contracts are subsequently awarded from the pool. These rules clarify how these evaluation criteria and procedures should apply.

(a) Evaluation Criteria for Prequalified Pools for Construction Services

For prequalified pools for public works construction contracts, where the Contract Awarding Authority conducts a Request for Qualifications process, the following principles shall apply:

- Contract Awarding Authorities that wish to establish a pool of prequalified firms to provide construction services may do so using objective criteria (e.g., Yes/No or True/False responses) or subjective criteria (e.g., price or other open responses that are scored by the contract awarding department/selection panel).
- If objective criteria are used and a positive response is required for each question, the LBE bid discount/rating bonus provision of the Ordinance shall not be applied because of the nature of the criteria. However, if objective criteria are used and the respondent is not required to provide a positive response to each question (e.g., 8 out of 10 questions must be answered in the affirmative) then the LBE bid discount/rating bonus provisions of the Ordinance shall be applied. After the pre-qualification process, the LBE bid discount provisions of the Ordinance shall apply to the selection of a contractor. The LBE Joint Venture bid discount/bonus does not apply to construction contracts.
- If subjective criteria are used to establish the prequalified pool, the LBE bid discount/rating bonus provisions of the Ordinance shall be applied. After the pre-qualification process, the LBE bid discount provisions of the Ordinance shall apply to the selection of a contractor. The LBE Joint Venture bid discount/rating bonus does not apply to construction contracts.

(b) Evaluation Criteria for Prequalified Pools for Professional Services, General Services, and Commodities

For prequalified pools for professional services, general services, architect/engineering, and

commodities Contracts, where the Contract Awarding Authority conducts a Request for Qualifications process, the following procedures shall apply:

- Contract Awarding Authorities that wish to establish a pool of prequalified firms to provide these types of services may do so using objective criteria (e.g., Yes/No or True/False responses) or subjective criteria (e.g., price or other open responses that are scored by the contract awarding department/selection panel)
- If objective criteria are used and a positive response is required for each question, the LBE bid discount/rating bonus provision of Chapter 14B shall not be applied because of the nature of the criteria. However, if objective criteria are used and the respondent is not required to provide a positive response to each question (e.g. 8 out of 10 questions must be answered in the affirmative) then the LBE bid discount/rating bonus provisions of Chapter 14B shall be applied.
- If subjective criteria are used to establish the prequalified pool, the LBE bid discount/rating bonus provisions of Chapter 14B shall be applied.

(c) Selecting from the Pool

- The Contract Awarding Authority must specify in the RFQ, the method used to assign work/select the consultant from the prequalified pool (e.g., if after the pre-qualification process, the Contract Awarding Authority will rotate using the prequalified firms based on the ranking, or if the Contract Awarding Authority will conduct an evaluation process to determine which pre-qualified firm shall receive work).
- If the Contract Awarding Authority conducts an evaluation process to determine which prequalified consultant shall receive work after the prequalification process, the LBE bid discount/rating bonus provisions of Chapter 14B shall apply to the selection of a consultant. In this subsection, “evaluation process” shall include the submission of proposals, submission of quotes, and/or conducting interviews. If an entity is selected from the pool with no further selection process (and such selection is allowed under provisions of the Administrative Code), the Contract Awarding Authority shall report to CMD whether or not the firm selected is an LBE. If the entity selected is not an LBE, the Contract Awarding Authority shall deliver to the CMD within five (5) business days of the selection a written explanation of the reasons for said selection.

Rule 11.4 - Selection Panel Member Makeup

Related Administrative Code Sections: [14B.10\(B\)\(6\)](#)

To ensure that selection processes do not arbitrarily disadvantage or discriminate against any LBE or other person, Contract Awarding Authorities shall abide by the following:

- Selection panel members should reflect the diversity of San Francisco.

- The project manager and any staff who worked on the RFP or RFQ shall not serve on the selection panel.
- No more than 50% of the selection panel members should be from the Contract Awarding Authority. This is consistent with the Controller's contracting guidelines.

Rule 11.5 - Selection Panel Deliberation/Discussion

Related Administrative Code Sections: [14B.10\(B\)\(6\)](#)

Prior experience has indicated that on occasions, discussion among panelists has introduced discriminatory considerations and unfairness into the selection process. Accordingly, CMD urges Contract Awarding Authorities and the selection panel members not to hold discussions. If the panel members decide to deliberate, the discussion shall be limited to the criteria listed in the RFP/RFQ or the oral interview questions/criteria. Selection panel members are subject matter experts and must score individually based on the responses provided by the proposers. Panel members shall not bring in unsubstantiated outside information.

Selection panel members shall not:

1. Discuss among themselves the scores or ratings of individual proposers;
2. Advocate for or against a particular firm; or
3. Single out a particular firm until after the selection process has been completed.

If the Director finds that panel deliberations result in discrimination or harm to an LBE, the Director shall intervene in the selection process as set forth in Section [14B.10\(B\)\(6\)](#). Such intervention can include, but is not limited to, excluding scores or requiring that the Contract Awarding Authority redo the selection process. The Contract Awarding Authority shall not inform the panel members of the identities of firms that are eligible for the bid discount/rating bonus at any stage of the selection process.

Rule 11.6 - Oral Interviews

Related Administrative Code Sections: [14B.10\(B\)\(6\)](#)

If the selection process includes an oral interview, the Contract Awarding Authority shall abide by the following procedures:

- After each consultant's oral interview is complete, panel members shall tally their respective raw scores.
- After each consultant's oral interview, the Contract Awarding Authority will immediately forward the original score sheets from each panel member to CMD.

- The Contract Awarding Authority shall issue a letter to CMD listing the ranking, score, and bid discount/rating bonus of each consultant not less than two business days after oral interviews have been completed.
- If the highest ranked consultant is an LBE, and after engaging in good faith negotiations the Contract Awarding Authority is unable to reach final agreement with that LBE, it may proceed to negotiate with the next ranked proposer after notifying the Director. If the Director finds that the Contract Awarding Authority's failure to award the contract to an LBE is in violation of Chapter 14B, the Director shall intervene in the selection process to correct any discriminatory contracting processes as set forth in Section [14B.10](#).

Section 12 - Bid Discount or Rating Bonus

Related Administrative Code Sections: [14B.7\(D\)](#), [14B.7 \(E\)](#), [14B.7\(F\)](#)

Contract Awarding Authorities shall work with CMD to apply the bid discount/rating bonus to bids and proposals from LBEs, pursuant to Sections [14B.7\(D\)](#), [\(E\)](#), and [\(F\)](#). LBEs shall not receive the bid discount for brokerage, referral or temporary employment services unless the request for proposal or bid specifications specifically requires these services in the proposed project. Bid discount/rating bonus applies at every stage of the selection process, including when determining the selection of alternate bid items.

Rule 12.1 - Additional Considerations for the Applying Rating Bonuses for Joint Venture Professional Services and Architect/Engineering Contracts

Related Administrative Code Sections: [14B.7\(F\)](#)

Pursuant to Section [14B.7\(F\)](#), for purposes of this Rule, "LBE" refers to Micro- LBEs and Small-LBEs. SBA-LBEs are not eligible for the rating bonus when joint venturing with a non- LBE firm. However, if the SBA-LBE joint ventures with a Micro-LBE or a Small-LBE, the joint venture will be entitled to the joint venture rating bonus only to the extent of the Micro-LBE or Small-LBE participation.

The joint venture rating bonus is available only for Professional Services and Architect/Engineering contracts. A business that is bidding or competing for Professional Services or Architect/Engineering contracts may associate with a certified LBE to compete for contracts as a joint venture. Joint Venture partners may be in different industries provided that each joint venture partner meets the minimum qualifications in the bid or proposal, and each is acting as a prime contractor or otherwise meets the definition of a Joint Venture. The LBE joint venture partner must perform Prime Level Work and be CMD certified for the scope of work they are proposing to perform in order to be eligible for the rating bonus. Joint ventures receive rating bonuses depending upon the LBE percentage of prime level participation as set forth in Section [14B.7\(F\)](#).

CMD must first approve the joint venture management plan before the joint venture is eligible for a rating bonus. Any changes in the joint venture management plan must also receive the prior approval of CMD.

A proposer requesting a joint venture rating bonus shall supply CMD with all such additional information as CMD may deem relevant in order to make a determination of the joint venture's eligibility for the rating bonus.

Section 13 - Calculating LBE Subcontracting Participation Credit

Related Administrative Code Sections: [14B.8\(A\)](#)

CMD will determine the amount of LBE participation that will count towards meeting the contract's LBE subcontracting participation requirement in the manners described in this section. Non-profit LBEs shall have the status of LBEs for all purposes of Chapter 14B, including but not limited to bid discounts/rating bonuses and subcontracting participation credit.

Rule 13.1 - General Rules

All prime bidders, including LBE prime bidders, must meet the LBE subcontracting participation requirement. An LBE prime bidder cannot count its own work towards meeting the LBE subcontracting participation requirement.

Only the dollar amount of work that is actually performed by the certified LBE subcontractor with its own workforce shall be credited toward the satisfaction of the LBE subcontractor participation requirement.

Amounts that the LBE subcontractor further subcontracts, assigns, or passes through to non-LBE lower-tier subcontractors shall not be counted toward meeting the required LBE participation percentage. Where a listed LBE subcontract includes work that will be performed in part by lower-tier non-LBE subcontractors, only the portion of the subcontract value directly attributable to work performed by the LBE subcontractor itself shall be credited for compliance purposes.

All work performed by lower-tier LBE subcontractors will be credited toward meeting the LBE subcontracting participation requirement provided that the lower-tier subcontractor was listed on Proposed Subcontractors Form, Section 00 43 36, (and Section 00 43 37, if applicable) at the time of bid.

Rule 13.2 - Deletable Bid Items, Allowances, and Contingency Bid Items

Deletable bid items, allowances, contingency bid items shall not be included in calculating compliance with the LBE participation requirement and will not be used to satisfy the required percentage at time of bid.

Rule 13.3 - Alternates

Alternate bid item(s) shall not be used in determining compliance with the LBE subcontracting participation requirement at time of bid submission, unless the contract awarding authority has identified in the advertisement for bids that the alternate bid item(s) will be included in the award.

The bidder shall submit LBE subcontractor commitments sufficient to meet the required participation

percentage based on the base bid amount and any alternate bid item identified in the advertisement as being included in the award.

The value of the alternate bid items ultimately selected and included in the award shall be included in the total bid amount for purposes of calculating final compliance with the LBE subcontracting participation requirement.

LBE subcontractors listed on Proposed Subcontractors Form, Section 00 43 36, should again be listed in Section 00 43 37 or equivalent City form for each alternate they will perform.

Rule 13.4 - Common Ownership and Credit Restrictions

A bidder shall not receive LBE subcontracting credit for any firm that the bidder owns, controls, or has any common ownership or control when bidding as the prime contractor. Any such affiliated firm listed shall not be credited toward meeting the LBE subcontracting participation requirement. For purposes of determining ownership or control, a business owned in whole or in part by the bidder's spouse or domestic partner shall be deemed to be owned by the bidder.

Where CMD has placed a credit restriction on a particular LBE with respect to another firm, that LBE's participation shall not be counted for LBE subcontracting credit for the firm(s) subject to the restriction.

Rule 13.5 - Commercially Useful Function

For a bidder to receive credit toward the LBE subcontracting participation requirement, a listed LBE subcontractor must be used in the trade(s) for which it is certified by CMD by time of Bid and perform a Commercially Useful Function.

An LBE subcontractor performs a Commercially Useful Function if it is directly responsible for providing the materials, equipment, supplies or services to the project as required by the bid and contract documents. To perform a Commercially Useful Function, an LBE subcontractor must be solely responsible for execution of a distinct element of the contract work, and must actually perform, manage and supervise the work involved in accordance with normal industry practice.

To determine whether an LBE subcontractor is performing a Commercially Useful Function, the CMD will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the LBE credit claimed for its performance of the work, and other relevant factors. What constitutes a Commercially Useful Function will vary depending on the type of LBE subcontractor (e.g., construction subcontractor, manufacturer, supplier, broker, or trucker).

An LBE subcontractor does not perform a Commercially Useful Function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of LBE participation. In determining whether an LBE is such an extra participant, the CMD will examine similar transactions and determine whether or not Non-LBEs

would normally participate in such transactions. For these special circumstances or situations, the bidder must seek CMD's prior review and approval.

Rule 13.6 - LBE Construction Subcontractors Participation Credit

Bidders may receive 100% credit for CMD-certified LBE construction subcontractors that perform a Commercially Useful Function by performing labor, supplying materials and supplies for a discrete portion of the contract work performed in accordance with normal industry practice. To receive credit towards the LBE subcontracting participation requirement with respect to materials and supplies used for the applicable portion of the contract work, the material and supplies must be of the type normally provided by the construction subcontractor in accordance with industry practice. In addition, with respect to materials and supplies, the LBE construction subcontractor must be responsible for negotiating price, determining quality and quantity, ordering the material and supplies, selecting a supplier or dealer from those available, installing the materials, and paying for the materials and supplies. To receive LBE subcontracting credit, the bidder must list the LBE construction subcontractor on Proposed Subcontractors Form, Section 00 43 36 (and Section 00 43 37, if applicable).

Bidders may receive 100% credit for LBE construction contractors that perform a Commercially Useful Function by performing labor only for a discrete portion of the contract work in accordance with normal industry practice. To receive LBE subcontracting credit, the bidder must list the LBE construction subcontractor on Proposed Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable). Supplying workers to a Bidder/prime or subcontractor does not constitute a Commercially Useful Function.

Rule 13.7 - LBE Manufacturers Participation Credit

If a bidder obtains materials, supplies, articles or equipment directly from an LBE manufacturer certified by the CMD as a manufacturer of such items, 100% of the cost of the items will count toward the LBE subcontracting participation requirement, regardless of who installs such items. An LBE manufacturer is a firm that performs a Commercially Useful Function by operating or maintaining a factory or establishment that produces on the premises, the materials, supplies, articles or equipment required under the contract and of the general character described by the specifications. To receive LBE subcontracting participation credit, the bidder must list the LBE manufacturer on Proposed Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable).

Rule 13.8 - LBE Suppliers Participation Credit

If a bidder obtains materials, supplies, articles or equipment from an LBE supplier certified by CMD to supply such items, 60% of the cost of the items will count toward the LBE subcontracting participation requirement if the LBE supplier performs a Commercially Useful Function by taking possession of the items and assuming the risk of their delivery. An LBE supplier is a firm with the financial and physical capability to purchase, to stock, and to distribute or sell the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract consistent with relevant industry practice in the usual course of business. No LBE subcontracting credit beyond

60% of the cost of materials, supplies, articles or equipment will be credited for any claimed services provided by the LBE supplier. To receive LBE subcontracting participation credit, the bidder must list the LBE supplier on Proposed Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable).

If a bidder obtains materials, supplies, articles or equipment from an LBE supplier certified by CMD to supply such items, and the supplier performs a Commercially Useful Function by purchasing and selling the items, but does not take possession of the items and assume the risk of their delivery, then the LBE supplier is serving as a broker or agent, and only 5% of the cost of the materials or supplies will count toward the LBE subcontracting participation requirement. No LBE subcontracting credit beyond 5% of the cost of materials or supplies will be credited for any claimed services (including, but not limited to, costs of insurance, warehousing or general maintenance) provided by the LBE supplier/broker. To receive LBE subcontracting credit, the bidder must list the LBE supplier/broker on Proposed Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable).

For CMD-certified LBE equipment rental firms, 60% of the equipment rental fee (current market rate) of equipment owned by the LBE equipment rental firm will be credited towards the LBE subcontracting participation requirement. To receive LBE subcontracting credit, the bidder must list the LBE equipment rental firm on Proposed Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable).

Rule 13.9 - Specially Manufactured Items Credit

The Instructions to Bidders or the Technical Specifications may list material, articles, equipment or other manufactured items that the City has designated as Specially Manufactured Items for the purposes of the LBE subcontracting participation requirement. A Specially Manufactured Item is an item that is either typically purchased by the prime contractor directly from the manufacturer or not supplied by suppliers or construction subcontractors in the usual course of business.

If the bid or contract documents expressly identify one or more Specially Manufactured Items, CMD will calculate LBE subcontracting credit for such items according to the following rules:

If a Specially Manufactured Item is manufactured by and purchased from a CMD- certified LBE manufacturer, 100% of the purchase order amount will be credited towards meeting the LBE subcontracting participation requirement, regardless of who installs the item. To receive LBE subcontracting credit, the bidder must list the LBE manufacturer on Proposed Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable).

- If a Specially Manufactured Item is purchased from a CMD-certified LBE supplier, only 5% of the purchase price of the item will be credited towards meeting the LBE subcontracting participation requirement. No LBE participation credit beyond 5% of the purchase price will be credited for any claimed services (including, but not limited to: costs of insurance, warehousing, and general maintenance) provided by the LBE supplier. To receive LBE subcontracting credit, the bidder must list the LBE supplier on Proposed Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable).

- If a Specially Manufactured Item is supplied and installed by a CMD-certified LBE construction subcontractor, 5% of the purchase price of the item and 100% of the installation labor cost will be credited towards meeting the LBE subcontracting participation requirement, provided that installation by the construction subcontractor reflects normal industry practice. To receive LBE subcontracting credit, the bidder must list the LBE construction subcontractor on Proposed Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable).

A bidder may receive full (100%) LBE subcontracting credit for any labor associated with the installation of a Specially Manufactured Item (regardless of the source of supply), provided the installation is performed by a CMD-certified construction subcontractor in accordance with normal industry practice. To receive LBE subcontracting credit, the bidder must list the LBE construction subcontractor on Proposed Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable).

Rule 13.10 - LBE Trucking Firms Participation Credit

To receive LBE participation credit for trucking and hauling, the subcontractor trucking firm must own the cab or trailer and be San Francisco LBE certified in the category of “Trucking and Hauling” at the time of Bid. Prior to the Bid due date, the LBE must have provided ownership information and all necessary permits and registration for the trucking and hauling items that will be utilized for the project to the CMD Certification Unit, which will verify and add this information to the certification file. During the course of the contract, the Director may authorize LBE participation credit for vehicles or equipment purchased or leased after the time of Bid on a case by case basis.

To receive LBE subcontracting participation credit, the bidder must list the LBE trucking firm on Proposed Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable) and the vehicle must be operated by the LBE trucking firm’s workforce.

Rule 13.11 - Construction Equipment Credit

Construction Equipment firms are firms that sell and/or rent construction equipment. For example, items such as storage tanks, grit separators, debris boxes, etc., are considered Construction Equipment and not under the “Trucking and Hauling” Category. If these items are utilized in conjunction with trucking and hauling operations, they are still classified in the Construction Equipment Category. In order to receive LBE participation credit for these types of items, a firm, at the time of Bid, must be certified under the category of “Construction Equipment” with the CMD’s Certification Unit.

Prior to the Bid due date, the LBE must have provided ownership information of the Construction Equipment items that will be utilized for the project to CMD’s Certification Unit, which will verify and add this information to the certification file. The LBE will need to provide documents appropriate to the firm’s stock, inventory, and business model. During the course of the Contract, the Director may authorize LBE participation credit for vehicles or equipment purchased or leased after the time of bid on a case by case basis.

LBE firms in the “Construction Equipment” category are equipment sales and rental firms. For CMD

certified LBE equipment rental firms, only 60% of the equipment rental fee (current market rate) will be credited towards the LBE sub participation requirement(s).

Rule 13.12 - Determining LBE subcontracting participation credit for the subcontractor Neighborhood/ZIP Code

For the purpose of determining whether or not a bid for a Neighborhood LBE Program contract is eligible for the Subcontractor Neighborhood/ZIP Code LBE Bid Discount, the same rules for determining LBE subcontracting participation credit apply.

Section 14 - Procedures for Pilot Programs

Rule 14.1 - Pilot Neighborhood LBE Program

Related Administrative Code Sections: [14B.22](#)

Pursuant to Section [14B.22](#), the Director shall implement a five-year long pilot neighborhood, hyper-local preference program. CMD will implement this pilot program in phases. The initial “roll-out” phase will occur during fiscal year 2022-2023. The program will sunset on July 1, 2027.

(a) Eligible Contracts

This program applies to Administrative Code [Chapter 6](#) public works contracts that are located within San Francisco and are estimated to cost more than \$10,000 and less than \$10,000,000.

The program does not apply to Job Order Contracts (JOC), As-Needed contracts, or any contract where a specific project location is not identified at the time bids are submitted.

(b) Eligible Businesses

The bid preferences described below apply to certified Small or Micro-LBEs that meet one or both of the following:

1. Project Zip Code LBE: A certified Small or Micro-LBE whose principal place of business is located in the same zip code as the project.
2. Neighborhood LBE: A certified Small or Micro-LBE whose principal place of business is located in the same Supervisorial District as the project. For the purposes of this program, “Neighborhood” means one of the 11 Supervisorial Districts established in Appendix E of the San Francisco Charter, as defined at the time bids are submitted.

(c) Bid Discounts for Neighborhood Pilot Project

In addition to discounts provided under Sections [14B.7\(E\) and \(F\)](#), Contract Awarding Authorities shall apply the following bid discounts, up to a maximum bid discount of 13%:

1. 1% Discount – For a Neighborhood LBE bidding on a project located in the same Supervisorial District as its principal place of business. For Micro Set-Asides, only Micro-LBE bidders are eligible for the discount.
2. 1.5% Discount – For a Project Zip Code LBE bidding on a project located in the same zip code as its principal place of business. For Micro Set-Asides, only Micro-LBE bidders are eligible for the discount.
3. 0.5% Discount – For any bidder whose LBE subcontracting participation on the bid includes Neighborhood LBEs for at least 50% of the required LBE subcontracting participation. Does not apply to Micro Set-Asides.
4. 1.5% Discount – For any bidder whose LBE subcontracting participation includes Project Zip Code LBEs for at least 50% of the required LBE subcontracting participation. Does not apply to Micro Set-Asides.

Rule 14.2 - Micro-LBE Trucking Utilization Pilot Program

Related Administrative Code Sections: [14B.16\(H\)](#),

Pursuant to Section [14B.16\(H\)](#), the Director shall implement a five-year long pilot Micro- LBE trucking utilization program for projects procured under [6.61\(c\)\(5\)](#) and [6.68\(c\)](#). The initial “roll-out” phase will occur in fiscal year 2022-2023.

During fiscal year 2022-2023, CMD will select a project for its initial pilot based on project timing and quantity of off-site hauling. Off-site hauling for this purpose shall mean the transport of construction and demolition material, including but not limited to asphalt grindings, concrete, and mixed loads that contain soil, wood, or other construction materials for their reuse, recycling, or proper disposal.

The Contract Awarding Authority shall provide the estimated cost of the off-site hauling work. CMD will develop a Micro-LBE trucking utilization requirement in collaboration with the Contract Awarding Authority based on the estimated quantity of the off-site hauling work and other factors.

Section 15 - Post-award Administration and Monitoring Procedures

Rule 15.1 - Reporting Responsibilities

Related Administrative Code Sections: [14B.7\(H\)](#), [14B.13\(D\)](#), [14B.15\(B\)](#), [14B.17\(J\)](#)

(a) General Reporting Responsibilities of the Contract Awarding

The Director shall notify all Contract Awarding Authorities in writing of what information the Contract Awarding Authority must enter into the City approved LBE Utilization Tracking System and the timeframes for entering the required data into the system so that CMD may effectively monitor City contracting in furtherance of Chapter 14B.

Contract Awarding Authorities bear all operational and fiscal responsibilities in ensuring that all necessary contracting data is entered into the City approved LBE Utilization Tracking System. Necessary data is that which allows CMD to effectively monitor and issue reports on each Contracting Awarding Authority's progress toward achieving the requirements of this Chapter. Contract Awarding Authorities with in-house contract data tracking are required to pay for and allocate resources to build any necessary programming bridges to ensure that all data is entered timely and accurately into the said system.

Contract Awarding Authorities shall inform the Director when they require training to comply with the reporting requirements.

Contract Awarding Authorities shall input accurately and completely the required contracting information into the City approved LBE Utilization Tracking System on a timely basis. Data concerning any particular payment issued by a Contract Awarding Authority shall be entered completely and accurately within 10 calendar days of issuing such payment.

Any Contract Awarding Authority that fails to input accurate and complete contracting information shall be reported to the Mayor and the Board of Supervisors in the Director's Quarterly Report. Consistent failure to input accurate and complete information shall be treated as willful non-compliance under Section [14B.17\(J\)](#).

(b) Reporting Responsibilities of Prime and Subcontractors

Prime Contractors are responsible for inputting accurately and completely, all subcontractors listed on their original LBE participation breakdown submitted at time of bid or proposal into the City approved LBE Utilization Tracking System, unless already populated by a Department's in-house contract administration database. Any adjustments or deviations must have CMD concurrence. Upon receipt of notification of payment by said system, Primes are responsible for paying their LBE subcontractors as provided under [14B.7\(H\)\(9\)](#) as well as identifying the date of payment in said system.

Upon payment notification by the Prime Contractor, Subcontractors are responsible for validating their receipt of payment on the City approved LBE Utilization Tracking System.

Failure by the Prime or Subcontractor to perform their requirements in the City approved LBE Utilization Tracking System shall be a material breach of contract and subject to sanctions or penalties as provided in Section [14B.17](#).

Rule 15.2 - Reporting Requirements

Related Administrative Code Sections: [14B.13\(D\)](#), [14B.15\(B\)](#), [14B.17\(J\)](#)

(a) Contract Awarding Authorities Annual Reports

As provided in Section [14B.15\(B\)](#), all Contract Awarding Authorities each fiscal year shall submit to the Board of Supervisors a report detailing the Department's:

1. Progress toward the achievement of the City-wide LBE Participation Goal;
2. Progress toward Contract-specific LBE subcontracting participation requirements;
3. Steps to ensure non-discrimination against MBEs, WBEs, and OBEs; and
4. Compliance with the Section [14B.7\(K\)\(3\)](#) Micro-LBE Set Aside Program.

(b) Contract Award Authorities Quarterly Reports

In the event that a Contract Awarding Authority has not made its contracting data readily available in the City-approved LBE Utilization Tracking System, the Contract Awarding Authority shall provide CMD with the following information in a format as requested:

1. The total number and value of contracts awarded in that fiscal year subject to Chapter 14B.
2. The total number and value of contracts subject to Chapter 14B awarded to LBEs.
3. The total number and value of contracts subject to Chapter 14B awarded to Non-LBEs.
4. The total value of LBE subcontractor participation, including a breakdown by MBE, WBE, and OBE, on each contract subject to Chapter 14B awarded in that fiscal quarter.
5. The total number and value of all task orders issued under any As-Needed or Job Order contract, including the overall LBE participation (prime versus sub), non-LBE participation (prime versus sub), a brief description of the scope of work, and whether or not the task order issued was for specialty work.
6. A list of contracts awarded with a contract value under 50% of the Minimum Competitive Amount/Threshold Amount and included no LBE subcontracting participation requirement, but were subsequently amended, modified, supplemented and/or had change orders so that the contract value is over the Minimum Competitive Amount/Threshold Amount.
7. The data required in subsection (B)(1) above shall be provided by the following dates:
 - a. November 1 for the prior fiscal quarter July 1 through August 31.
 - b. February 1 for the prior fiscal quarter October 1 through December 31.
 - c. May 1 for the prior fiscal quarter January 1 through March 31.
 - d. August 1 for the prior fiscal quarter April 1 through June 30.

(c) City Administrator Annual Report

As provided in Section [14B.15\(C\)](#), the City Administrator shall submit its annual report to the Mayor and the Board on the progress of the City towards achieving the goals of Chapter 14B, including

identification of problems and specific recommendations for improving participation by all categories of LBEs in City contracting. The report shall include an analysis of the availability of MBEs, WBEs, and OBEs and the bidding environment in the various industries that participate in City contracts.

Rule 15.3 - Progress Payments and Attestations

Related Administrative Code Sections: [14B.7\(H\)\(2\)](#), [14B.7\(H\)\(9\)](#), [14B.7\(M\)](#)

Each prime contractor's payment request submitted to the Contract Awarding Authority shall be accompanied by the CMD Progress Payment Form. Within ten (10) days following receipt of a progress payment, the prime contractor shall submit to the Contract Awarding Authority a statement, in a form specified by the Director, attesting that the prime contractor has paid all subcontractors all undisputed amounts from previous City payments. The Prime contractor will also ensure that all LBE subcontractors have validated and confirmed their progress payments on the City-approved LBE Utilization Tracking System as part of their invoicing packages.

Each prime contractor is required to submit progress payment requests no less than 30 days upon receipt of an accepted LBE subcontractors' invoice. Failure to submit LBE subcontractors' invoices in a timely manner may result in penalties up to 25% of the subcontractors' total contract amount as provided in Section [14B.7\(H\)\(2\)](#).

Rule 15.4 - Procedures for Contract Modifications

Related Administrative Code Sections: [14B.13\(A\)\(11\)](#), [14B.13\(A\)\(13\)](#)

Pursuant to Section [14B.13\(A\)\(11\)](#), it is the responsibility of the Contract Awarding Authority to provide the Director with written notice of all contract amendments, modifications, supplements and change orders that cumulatively result in an increase or decrease of the contract's dollar amount of more than ten percent (10%). Such notice shall be provided within ten (10) days of each such contract modification.

Pursuant to Section [14B.13\(A\)\(13\)](#), the Contract Awarding Authority must obtain CMD prior approval for all contract amendments, modifications, supplements and/or change orders to a Contract originally valued at or above 50% of the Minimum Competitive Amount, that cumulatively increase the Contract's total value by more than twenty percent (20%) of its original or last CMD approved value. The Director shall not approve any proposed amendments, modifications, supplements and/or change orders that unreasonably exclude LBEs from new contracting opportunities. The Department must submit to the Director a CMD Contract Modification Approval Form and include:

- Copies of all prior contract amendments, modifications, supplements, and/or change orders for the relevant contract; and
- A spreadsheet with a breakdown of the list of contractors and subcontractors working on the change order with the contract dollars for each individual firm(s).

Upon receipt of all the required documentation, the Director shall provide the requesting Department a determination regarding the proposed amendments, modifications, supplements, or change orders within ten (10) business days of CMD's receipt of such documentation. The Director shall impose or increase the subcontracting participation from the proposed amendment, modification, supplement or change order as appropriate. If the Director fails to respond to the request within the specified time frame, the modification shall be deemed approved.

The Contract Awarding Authority and prime contractor must both obtain CMD approval prior to removing LBE subcontractor(s) or adding additional subcontractor(s). No subconsultant, subcontractor, supplier, trucker or other business listed at time of Bid shall be substituted, removed from the contract, or have its contract, purchase order or other form of agreement modified in any way without CMD's prior approval. Prime must conduct good faith efforts to replace an LBE subcontractor or subconsultant with another LBE subcontractor or subconsultant to comply with the LBE participation requirements and submit a completed Firm Addition/Substitution Request Form to CMD.

Rule 15.5 - Early Release of Retention for LBEs

Related Administrative Code Sections: [6.22\(j\)\(3\)](#)

The LBE subcontractor may request the release of retention for work the subcontractor has completed, in whole or in part, in accordance with the project's plans and specifications. The LBE subcontractor must submit its request in writing to the Contractor.

Upon receiving a written request from an LBE subcontractor for the release of retention, the Contractor shall promptly review the request. If the portion of work for which the LBE subcontractor is requesting retention has been completed and is satisfactory, the Contractor must submit a written request to the Department Head to authorize the release of retention.

The Contractor's written request to the Department Head must certify the following: (1) The LBE subcontractor's work is completed and satisfactory in accordance with the project's plans and specifications; (2) The total amount paid to the LBE subcontractor as of the date of the request and the total amount of the subcontract; and (3) the amount of retention associated with the work performed by the LBE subcontractor.

Upon receiving a complete and valid written request from the Contractor, the Department Head shall authorize the release of retention for the completed and satisfactory work of the LBE subcontractor. Following such a release, the City will reduce the total retention required by the amount released, to properly calculate future progress or milestone payments.

Section 16 - Capacity Building Programs

Rule 16.1 - Citywide Bonding and Financial Assistance Program

Related Administrative Code Sections: [14B.16\(A\)\(6\)](#)

Pursuant to Section [14B.16\(A\)\(6\)](#), each department authorized to contract for public works or improvements pursuant to San Francisco Administrative Code Chapter 6 may commit to the Citywide Bonding and Financial Assistance program ("Program") up to ten percent (10%), but not less than one percent (1%), of the budget for every public work or improvement undertaken.

Funding for the Program will be contributed from individual departments on a project-by-project basis. Prior to the advertisement of an individual public works contract, the CMD Director, in consultation with each individual Department and the Program Administrator, shall establish the percentage to be applied to the Department's public works contract using the following criteria:

- a. project budget;
- b. source and flexibility of funding;
- c. size of the project;
- d. scope of work; and
- e. the LBE subcontracting participation requirement.

Participating Departments will include the contribution to the Citywide Bonding and Financial Assistance Program as part of the contingency budget for its individual projects.

Rule 16.2 - Mentor-Protégé Program

Related Administrative Code Sections: [14B.16\(D\)](#)

Pursuant to Section [14B.16\(D\)](#), the Director shall implement a Mentor-Protégé Program (MPP). MPP provides a platform for mentors, successful, established businesses, to partner with protégés, CMD certified Micro-LBE firms, to improve the protégés' ability to compete effectively for City contracts. Mentors are to provide developmental assistance in any of the following areas: (1) business organization and management; (2) leadership development; (3) financial and strategic planning; (4) insurance, loans, and bonding; (5) business engagement.

(a) Selection of Participants for the Mentor-Protégé Program.

All prospective mentors and protégés must complete all steps of the selection process before the stated deadline. The selection process may include an assessment and an application. CMD will match a protégé with a mentor based on factors determined by CMD, which include the applicants' experience and qualifications.

(b) Benefit to Mentors in the Mentor-Protégé Program

The Director may exempt an MPP mentor from the good faith efforts requirements in Section 14B.8 if, within three months following the cohort kick-off event, the mentor has attended all events and cohort meetings and has met with their protégé for at least six hours. Once granted,

the exemption from the pre-award good faith outreach requirement remains valid for two years from the date of determination. The good faith outreach exemption benefit may be revoked if the mentor-protégé pairing is dissolved or if the steering committee finds that the mentor has not meaningfully participated in the program.

(c) Benefit to Mentors Under the Pilot Mentor-Protégé Expansion

The expansion of the Mentor-Protégé Program took effect on July 1, 2022 and will sunset on June 30, 2027. Benefits under this expansion must have a determination date on or prior to June 30, 2027. The Director may grant the expansion benefit if, within three months following the cohort kick-off event, the mentor has attended all events and cohort meetings and has met with their protégé for at least six hours.

Once granted, the mentor is eligible to receive a 1% bid discount, not to exceed \$300,000, on bids on Administrative Code Chapter 6 public works construction projects. For contracts evaluated on a points-based system, the 1% bid discount shall apply only to the cost portion of the evaluation. The 1% bid discount will not apply if its use would cause an LBE to lose status as the apparent low bidder. This benefit cannot be combined with any other Chapter 14B discounts for which the mentor may be eligible.

Once the mentor is granted the 1% bid discount/rating bonus benefit, it will remain valid for two years from the date of determination and may be rescinded if the mentor-protégé pairing is dissolved or if the steering committee finds that the mentor has not meaningfully participated in the program.

Section 17 - Enforcement and Correction Actions for Non-Compliance

Rule 17.1 - Administrative Sanction Procedures

Related Administrative Code Sections: [14B.17](#)

Within twenty (20) days of the completion of an investigation where the Director determines that a bidder, contractor, certified business or applicant for certification violated any of the requirements of Chapter 14B, these Rules and Regulations, or contract provisions pertaining to LBE participation, and the Director determines that the matter cannot be resolved through conference and conciliation, or, if the Director attempts to resolve the violation(s) through conference and conciliation but such attempts fail, within twenty days of such failure, the Director shall issue written Counts and Allegations setting forth the basis for the Director's determination and imposing appropriate sanctions as provided in Chapter 14B.

Rule 17.2 - Counts and Allegations.

Related Administrative Code Sections: [14B.17](#)

The Director shall serve the Counts and Allegations on each named individual person or business

entity determined to have violated Chapter 14B in a manner ensuring confirmation of delivery. For example, service may be achieved by United States Postal Service certified mail, return receipt requested or with other delivery confirmation, hand delivery (messenger service) or other commercial delivery service that provides written confirmation of delivery. The Director may, but is not required to, serve copies of the Counts and Allegations to any Complainant, Contract Awarding Authority, or other interested city official. The Director shall append to the Counts and Allegations a copy of the administrative sanction procedures. Failure to append a copy of the administrative sanction procedures shall not affect the force or validity of the Counts and Allegations.

Within fifteen (15) days after receipt of the Counts and Allegations, any individual person or business entity named in the Counts and Allegations may submit a written request for an administrative hearing. Such a request may be made through counsel or other authorized representative. Any such request shall be filed with the Director.

Failure of any individual person or business entity named in the Counts and Allegations to submit to the City a written request to be heard within the time required by this Chapter, or failure of any individual person or business entity named in the Counts and Allegations or that person or entity's representative to appear for a requested hearing that has been duly noticed, shall be deemed admission by that person or entity to the Counts and Allegations. In accordance with the procedures set forth below, the Director shall present evidence in support of the sanctions imposed to the City Administrator or appointed hearing officer, and the City Administrator or hearing officer shall make a determination on such evidence.

Rule 17.3 - Hearing by Commission or Hearing Officer

Related Administrative Code Sections: [14B.17](#)

The Director shall promptly notify the City Administrator of a written request for a hearing made by the person or entity who received the counts and allegations. The City Administrator shall (a) hold a hearing on the matter, or (b) appoint a hearing officer.

(a) Appointment of Hearing Officer

Unless the City Administrator hears the matter without a hearing officer, the City Administrator shall appoint a hearing officer no later than fifteen (15) days after the written request for the hearing.

The notice of appointment shall include the name of the hearing officer. Each individual person or business entity named in the Counts and Allegations or the Director may object to the appointed hearing officer within five business days of the notification. If the City Administrator appoints a new hearing officer, then the City Administrator shall notify each individual person or business entity named in the Counts and Allegations and the Director as soon as practicable but not more than fifteen (15) days after receipt of the objection.

(b) Pre-Hearing Procedure

Within fifteen (15) days of his/her appointment, the hearing officer shall notify each individual person or business entity named in the Counts and Allegations and the Director of the scheduled hearing date. The hearing date shall be set at the hearing officer's sole discretion, except the hearing must commence within 120 days of the date the Director served the Counts and Allegations. The hearing officer may extend the 120-day period only upon good cause shown; recognizing that proceeding as expeditiously as possible is in the public's best interests.

Discovery pursuant to the California Code of Civil Procedure is not applicable to this administrative proceeding.

The hearing officer may, in his/her sole discretion, direct the persons or business entities named in the Counts and Allegations and the Director to submit in advance of the hearing, statements, legal analyses, lists of witnesses, exhibits, documents or any other information the hearing officer deems pertinent to the determination of noncompliance or sanctions. The hearing officer may request the respective parties to submit rebuttals to such information. The hearing officer may limit the length, scope or content of any such statement, analysis, list, rebuttal, document, or other requested information. The hearing officer shall set firm due dates for all written presentations.

If the hearing officer determines, with the written agreement of each individual person or business entity named in the Counts and Allegations and the Director, that the hearing shall be by written presentation, all final writings shall be due no later than 120 days of the date the Director served the Counts and Allegations, unless the hearing officer extends the 120-day period only upon good cause shown.

(c) Hearings and Determinations

Hearings may occur in person or in writing, as set forth in under the preceding section on pre-hearing procedures. If the hearing is to occur in person, the hearing officer shall specify the time and place for the Director to present the case and for the persons or business entities named in the Counts and Allegations to rebut the charges. The hearing officer may, in his/her sole discretion, allow offers of proof, set time limitations and limit the scope of evidence presented based on relevancy. Each side shall be entitled to call witnesses, and the hearing officer may allow cross-examination of witnesses. The hearing officer may ask questions of any party for the purpose of reaching a determination.

The hearing officer shall consider the evidence submitted by the Director and the persons or business entities named in the Counts and Allegations. Within 15 days of the hearing, or of the date final written presentations are due, the hearing officer shall issue his/her Findings and Recommendations. The hearing officer shall serve the Findings and Recommendations on the Director, the persons or business entities named in the Counts and Allegations and/or their respective counsel or authorized representatives, and, if appointed by the Controller, to the Controller.

Section 18 - Development Agreements

Development projects are typically privately funded projects that may occur on public or privately-owned land. While these projects are not typically subject to the same requirements as City-funded public work projects, the City often negotiates agreements with development project owners to maximize public benefits for projects that occur on public land. These include projects under the purview of the Mayor’s Office of Housing and Community Development, the Office of Economic and Workforce Development, the Treasure Island Development Authority, and many others. This section provides guidelines on LBE considerations and requirements that must be included in development agreements at a minimum. Depending on the specific nature of the development projects, other requirements may be negotiated.

Rule 18.1 - LBE Utilization Plans for Development Agreements

Related Administrative Code Sections: [14B.20](#)

For development agreements pursuant to Section [14B.20](#), the developer, Director, and City department shall negotiate a LBE utilization plan that includes good faith outreach requirements, an LBE participation goal(s), and reporting requirements. The LBE utilization plan may also include the following.

- **LBE Liaison.** The developer shall identify a “LBE Liaison” as the developer’s main point of contact with CMD for outreach or compliance concerns and to be available to meet with CMD staff as necessary.
- **LBE Utilization Goal.** The developer will work in good faith with CMD to establish an LBE utilization goal for the project. In order to support the developer in meeting the project’s LBE utilization goal, the Director may set individual LBE goals by project phase (e.g. design, construction, etc.) or by individual projects or contracts.

The developer shall satisfy the LBE utilization goal by using Small and Micro-LBEs. If the Director determines there are not sufficient Small and Micro-LBEs available, the Director may permit the developer to satisfy the LBE utilization goal by also using SBA-LBEs.

Where appropriate, the developer will divide the work as practicable in order to maximize LBE participation, such as identifying specific portions of work that may be performed by subcontractors.

When warranted, the Director may set up to three individual goals, (i.e., a Micro- LBE, Small-LBE, and SBA-LBE goals) to maximize LBE participation.

Rule 18.2 - Advertisement of Opportunities in Development Projects

Related Administrative Code Sections: [14B.20](#)

The developer will notify CMD in writing of all upcoming contracting opportunities at least 10 business days before the contract’s advertisement date to allow CMD to review and comment on upcoming solicitation. The developer will hold pre-proposal/pre-bid meetings no less than 15 calendar days prior to the bid, proposal, or solicitation submittal due dates.

Rule 18.3 - Outreach and Other Assistance to LBEs

Related Administrative Code Sections: [14B.20](#)

The developer will:

1. Provide LBEs with plans, specifications, and requirements for all or part of the work solicited;
2. Notify LBE trade associations that disseminate bid and/or contract information;
3. Provide plans or project specifications to the SFPUC Contractors Assistance Center, and any other location(s) easily accessible by the public;
4. Work with CMD to conduct outreach to LBEs for all consulting or contracting opportunities in the applicable trades and services in order to encourage LBE participation on the project; and
5. Document any efforts taken to encourage participation by LBEs.
6. The developer shall make the LBE Liaison available to explain the developer's insurance and bonding requirements as applicable, answer questions, and work with CMD to suggest governmental or third-party avenues of assistance if available.
7. The developer shall include in all of its contracts, a provision that requires all subsequent contractors or subcontractors to follow good faith efforts to subcontract to LBEs.

Rule 18.4 - Data Collection and Reporting

Related Administrative Code Sections: [14B.20](#)

The developer will keep track of the date that each response, proposal, or bid was received from LBEs, including the amount bid by and the amount to be paid (if different) to the non-LBE contractor that was selected. The developer will further create a reporting method to track LBE participation. The data tracked shall include the following:

1. Name/Type of contract or work solicited (e.g. civil engineering, environmental consulting, etc.)
2. Name of prime contractor and whether a certified LBE
3. Name of subcontractors and whether any are certified LBE
4. Scope of work to be performed by the LBEs
5. Dollar amounts paid to both LBE and non-LBE contractors at both the prime and subcontractor levels
6. Total LBE participation as a percentage of Total contract dollars

Rule 18.5 - Monitoring and Enforcement of Development Projects

Related Administrative Code Sections: [14B.20](#)

The developer shall provide a detailed quarterly report on LBE participation based on the total value of contracts awarded and paid to LBEs as a percentage of the total value of project dollars awarded and paid to date. When deficiencies are noted, developer shall meet and confer with CMD to come up with a plan to increase LBE participation.

APPENDIX A

The PUC Water System Service Area is defined by defined by the following cities/ZIP codes and may be amended by the PUC from time to time.

Tuolumne County

| <u>City</u> | <u>ZIP Code</u> |
|--------------|-----------------|
| Big Oak Flat | 95305 |
| Chinese Camp | 95309 |
| Cold Springs | 95335 |
| Columbia | 95310 |
| Dardanelle | 95314 |
| Groveland | 95321 |
| Jamestown | 95327 |
| Long Barn | 95335 |
| Mi Wuk | 95346 |
| Moccasin | 95347 |
| Pinecrest | 95325 / 95364 |
| Sonora | 95370 / 95373 |
| Soulsbyville | 95372 |
| Standard | 95373 |
| Strawberry | 95375 |
| Tuolumne | 95379 |
| Twaine Harte | 95383 |

Mariposa County

| <u>City</u> | <u>ZIP Code</u> |
|------------------|-----------------|
| Cathay's Valley | 95306 |
| Coulterville | 95311 |
| El Portal | 95318 |
| Hornitos | 95325 |
| Fish Camp | 93623 |
| Mariposa | 95338 |
| Midpines | 95345 |
| Tuolumne Meadows | 95389 |
| Wawona | 95389 |
| Yosemite | 95389 |

Stanislaus County

| <u>City</u> | <u>ZIP Code</u> |
|---------------|-----------------|
| Ceres | 95307 |
| Crows Landing | 95313 |
| Del Rio | 95356 |
| Denir | 95316 |
| Empire | 95319 |
| Grayson | 95363 |
| Gustine | 95322 |
| Hickman | 95323 |
| Hughson | 95326 |

| | |
|-----------|---|
| Keyes | 95828 |
| La Grange | 95329 |
| Modesto | 95350 / 95351 / 95352 / 95353 / 95354 / 95355 / 95356 / 95357 / 95358 / 95397 |
| Newman | 95347 / 95350 / 95353 / 95355 / 95358 / 95360 |
| Oakdale | 95361 |
| Paterson | 95363 |
| Riverbank | 95367 |
| Salida | 95368 |
| Turlock | 95380 / 95381 / 95382 |
| Waterford | 95386 |
| Westley | 95387 |

San Joaquin County

| <u>City</u> | <u>ZIP Code</u> |
|----------------|---|
| Acampo | 95220 |
| Clements | 95227 |
| Escalon | 95320 |
| Farmington | 95230 |
| French Camp | 95231 |
| Galt | 95632 |
| Holt | 95234 |
| Lathrop | 95330 |
| Linden | 95236 |
| Lockeford | 95237 |
| Lodi | 95240 / 95241 / 95242 |
| Lyoth | 95296 |
| Manteca | 95336 / 95337 |
| Mountain House | 95391 |
| Ripon | 95366 |
| Stockton | 95201 / 95202 / 95203 / 95204 / 95205 / 95206 / 95206 / 95207 / 95208 / 95210 / 95211 / 95212 / 95213 / 95215 / 95219 / 95267 / 95269 / 95296 / 95297 |
| Tracy | 95304 / 95376 / 95377 / 95378 / 95391 |
| Vernalis | 95385 |
| Victor | 95253 |
| Woodbridge | 95258 |
| Thornton | 95686 |

Alameda County

| <u>City</u> | <u>ZIP Code</u> |
|---------------|---|
| Alameda | 94501 / 94502 |
| Castro Valley | 94546 / 94552 |
| Fremont | 94536 / 94537 / 94538 / 94539 / 94555 |
| Hayward | 94540 / 94541 / 94542 / 94543 / 94544 / 94545 / 94557 |
| Livermore | 94550 / 94551 |
| Newark | 94560 |
| Pleasanton | 94566 / 94588 |
| Sunol | 94586 |

Union City 94587

San Mateo County

| <u>City</u> | <u>ZIP Code</u> |
|---------------------|---------------------------------------|
| Atherton | 94027 |
| Belmont | 94002 |
| Brisbane | 94005 |
| Burlingame | 94010 / 94011 |
| Daly City | 94013 / 94014 / 94015 / 94016 / 94017 |
| El Granada | 94018 |
| Half Moon Bay | 94019 |
| La Honda | 94020 |
| Loma Mar | 94021 |
| Menlo Park | 94025 / 94026 |
| Millbrae | 94030 |
| Montara | 94037 |
| Moss Beach | 94038 |
| Pacifica | 94044 |
| Pescadero | 94060 |
| Portola Valley | 94028 |
| Redwood City | 94061 / 94062 / 94063 / 94064 / 94065 |
| San Bruno | 94066 |
| San Carlos | 94070 |
| San Francisco | 94128 |
| San Gregorio | 94074 |
| San Mateo | 94401 / 94402 / 94403 / 94404 / 94497 |
| South San Francisco | 94080 / 94083 / 94099 |

Santa Clara County

| <u>City</u> | <u>ZIP Code</u> |
|----------------|--|
| Alviso | 95002 |
| Campbell | 95008 / 95009 / 95011 |
| Coyote | 95013 |
| Cupertino | 95014 / 94015 |
| Los Altos | 94022 / 94023 / 94024 |
| Milpitas | 95035 / 95036 |
| Mount Hamilton | 95140 |
| Mountain View | 94035 / 94039 / 94040 / 94041 / 94042 / 94043 |
| Palo Alto | 94301 / 94302 / 94303 / 94304 / 94305 / 94306 / 94309 |
| San Jose | 5101 / 95103 / 95106 / 95108 / 95109 / 95110 / 95111 / 95112 / 95113 / 95115 / 95116 / 95117 / 95118 / 95119 / 95120 / 95121 / 95122 / 95123 / 95124 / 95125 / 95126 / 95127 / 95128 / 95129 / 95130 / 95131 / 95132 / 95133 / 95134 / 95135 / 95136 / 95138 / 95139 / 95141 / 95148 / 95150 / 95151 / 95152 / 95153 / 95154 / 95155 / 95156 / 95157 / 95158 / 95159 / 95160 / 95161 / 95164 / 95170 / 95172 / 95173 / 95190 / 95191 / 95192 / 95193 / 95194 / 95196 |

Santa Clara
Stanford
Sunnyvale

95050 / 95051 / 95052 / 95053 / 95054 / 95055 / 95056
94305
94085 / 94086 / 94087 / 94088 / 94089