

San Francisco Office of the City Administrator

LBEAC Director's Report

June 6, 2024

Agenda

1) Introduce CMD Compliance Managers:

- Michael Cagampan (SFO)
- Kate Mundhenk (PUC)

2) Know the Code – LBE Retention Release

3) Program Improvement

- Construction Site Visits
- LBE Certification Updates
- Peoplesoft System improvements

4) Updates

Know the Code: LBE Rights for Retention

Issue:

LBE capital is tight. Once LBE work is done, retention is held....potentially for years.

There is insufficient use of Chapter 6.22(j) – which provides for LBE rights related to retention.

Implement:

Inform LBEAC. Share with LBEs in June LBE Newsletter.

Impact:

Get funds to LBEs sooner.



Know the Code: Retention Release for LBEs

What does the code say in Chapter 6.22(j)(3)?

“(3) The Department Head shall authorize the release of retention, in whole or in part, for work completed by subcontractors certified by CMD as LBEs. The Department Head shall do so only upon a written request by the Contractor certifying (A) the work by the certified LBE subcontractor is completed and satisfactory in accordance with the plans and specifications for the project; (B) the total amount paid to the certified LBE subcontractor by the Contractor as of the date of the written request and the total amount of the subcontract; and (C) the amount of retention associated with the work performed by the certified LBE subcontractor. Following a release of such retention, and in order to calculate retention and retention withholding from further progress or milestone payments, the City will reduce the total retention required under the foregoing paragraphs (1) and (2) by the amount paid to the certified LBE subcontractor(s) for whom the City released the retention. The release of retention under this subsection 6.22(j)(3) shall not reduce the responsibilities or liabilities of the Contractor or its surety under the Contract or applicable law.”

What does this mean for an LBE when work is completed and they seek retention before project conclusion?

- LBEs must contact Prime to request release of retention when their work is completed. The Prime must then send a written request to the Awarding Department (e.g., PW, PUC, SFO, etc.), attaching the LBE's Exit Report & Affidavit (CMD Form 8)
- CMD has sample letter for LBEs to use when in dialogue with their Prime. CMD can contact department to learn status of invoices and payments.

Know the Code: Sample Letter from the Prime Contractor to the Awarding Department - Asking to Release the LBE's Retention

[Prime's Letterhead Here]

[Date]

To:

The Department

Address

San Francisco, CA 94102

Ph: (415) 554-1666

RE: CONTRACT NO. and Title, Trade Package No and Title

SUBJECT: Trade Package [Number] – Early Retention Release Request for [the LBE]

Dear Mr./Ms./Dr. [Redacted]

The [Prime Contractor's Name] submits for the City's consideration the partial retention release request for the Trade Package LBE subcontractor, [the LBE firm name], in the amount of [Redacted] dollars. [The LBE Subcontractor] has completed 100% of its scope on the subject Trade Package as of [date]. [The Prime] will reach the contractual Substantial Completion milestone in [February 2025]; however, it would be beneficial for the LBE to receive its retention as soon as possible. In accordance with SEC. 6.22.(3):

"(3) The Department Head shall authorize the release of retention, in whole or in part, for work completed by subcontractors certified by CMD as LBEs. The Department Head shall do so only upon a written request by the Contractor certifying (A) the work by the certified LBE subcontractor is completed and satisfactory in accordance with the plans and specifications for the project; (B) the total amount paid to the certified LBE subcontractor by the Contractor as of the date of the written request and the total amount of the subcontract; and (C) the amount of retention associated with the work performed by the certified LBE subcontractor. Following a release of such retention, and in order to calculate retention and retention withholding from further progress or milestone payments, the City will reduce the total retention required under the foregoing paragraphs (1) and (2) by the amount paid to the certified LBE subcontractor(s) for whom the City released the retention. The release of retention under this subsection 6.22(j)(3) shall not reduce the responsibilities or liabilities of the Contractor or its surety under the Contract or applicable law."

The attached CMD Form 8 constitutes an exit affidavit for the subject trade package, signed by both the Prime and the LBE subcontractor, attesting to the amount invoiced by the LBE, the amount paid to date to the LBE, and any amount(s) still owed by the Prime Contractor (if any).

We kindly ask the [The Department] to expedite the retention release for [the LBE]. Please do not hesitate to contact us if you have any questions in this regard.

Sincerely,

[Prime's Name]

Program Improvement 1: Enforcement - Construction Site Visits

Issue:

Improve CMD presence and access in contracting and compliance.

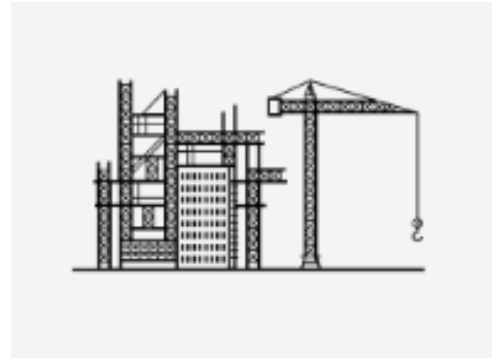
Paperwork compliance doesn't tell the whole story.

Implement:

CMD contacted other compliance agencies to learn best practices. Initial training completed for CMD Compliance Officers. Obtaining PPE for all staff.

Impact:

Improved monitoring, compliance, enforcement and education of the LBE program



Program Improvement 2: LBE Certification: Credit Restrictions and Threshold Checks

LBE Credit Restrictions are a way to offer an LBE certification but still offer protection against abuse.

These are issued in instances like:

- Shared offices
- Owners are involved in more than one company
- Employee just resigned from their previous employer to work at their new company
- Has investors from another company

Restriction is listed on letter and will be in Directory after redesign is completed.

CMD has the discretion to issue a **one-year certification**.

The most likely reason is because the firm is projected to surpass a threshold in the next year.

At conclusion of one-year certification due to being at a threshold cusp there are two options at recertification:

Do a full recertification to try to obtain a 3-year certification?

or

Do a partial recertification where you submit tax returns only. CMD staff may issue 1 or 2 additional years.

All firms must complete full recertification after three years.

Program Improvement 3: PeopleSoft CMD Updates

Automatic notifications from PeopleSoft has been updated for LBE certification. Query improvements for directory also in the works.

Next Phase: Similar to the LBE Directory refresh, CMD is working with the SF City Partner Team to modernize and update three CMD public-facing sections of PeopleSoft: (1) LBE Certification Application; (2) Equal Benefits Application; (3) CMD Payment Affidavits (electronic Form 7/9).

Goal: User-friendly interface, meet user needs, and improve CMD's programs. CMD seeking some LBEs to provide feedback during design.

From

1. LBE Certification Application

Address: 1000 Market Street, San Francisco, CA 94102

Phone: 415-376-3300

Website: www.sfgov.org

Business Hours: Monday - Friday, 9:00 AM - 5:00 PM

Services: LBE Certification Application

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Services: Equal Benefits Application

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3. CMD Payment Affidavits (electronic Form 7/9)

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To

4. User-friendly interface, meet user needs, and improve CMD's programs.

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Services: User-friendly interface, meet user needs, and improve CMD's programs.

Business To Do: BOI needed for Corporations, LLCs, LPs, and LLPs

What:

U.S. Department of Treasury Financial Crimes Enforcement Network Corporate Transparency Act (CTA) requires corporations, limited liability corporations (LLCs), limited partnerships (LPs) and limited liability partnerships (LLPs) **to file a beneficial ownership report (BOI) report**. This report is to ensure that the identity of owners is known and this is intended to combat money laundering, terrorism financing, organized crime, and other financial crimes.

When:

Companies created or registered before January 1, 2024: Have until January 1, 2025 to file their initial BOI report

Companies created or registered in 2024: Have 90 days calendar days to file.

How:

Go here for more

information: <https://www.fincen.gov/boi> and <https://www.fincen.gov/boi-faqs>

Other Updates

- File [240501](#) was introduced at Board of Supervisors. It seeks to exempt Vision Zero projects from many requirements, including Chapter 6 and 14B.
- File [240301](#) was signed by the Mayor. Legislation eases requirements for City to Government contracts. CMD does not anticipate a negative impact for LBEs.
- CMD move! Main Phone Number is in operation BUT call forwarding will end in 2025. Use 415-554-0630 as the main number.

Questions