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# ACA Newsletter

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## What is Third Party Agreements in City Contracting?

City of Austin ordinances which govern the city’s Minority- and Women-Owned Business Enterprise (M/WBE) Procurement Program are also applicable to what the city calls “Third Party Agreements.” These Third-party Agreements are formed when the city enters into a contractual agreement with a private entity to lease city ground or to provide the design and construction of public improvements or improvements to City real property. These private developers receive pecuniary incentives from the city to participate in these projects to promote economic development.

Under the M/WBE program, all prime contractors working on third party agreements are required to follow the same M/WBE program rules from conducting good faith efforts, filling out program compliance plan, to providing monthly report to the city. There is, however, a soupçon of variance in the compliance procedures between the two when changes to or cancellations of scopes

of work occur involving minority contractors. The table in the left column illustrates where the two stand on the same principles and where they differ. While prime contractors on city projects are required to obtain written approvals from multiple authorities including project managers, department directors, and SMBR Director to effect the Request for Change (RFC) to cancel, change, or replace a subcontractor with another, they need only to notify the city on third party agreements unless it is specified in the contract with the city.

As part of the required process, SMBR business development counselors (BDC) assigned to city projects have to contact any minority contractors whose work has been affected due to these changes with a personal phone call. No such process is required for SMBR BDCs to follow on Third Party Agreements projects, according to SMBR Senior Business Development Counselor Stella Richardson.

Confusion often arises among subcontractors/sub-consultants on Third Party Agreements when their contracts with the prime never came to fruition. Ms. Richardson explains that it could be because the work never materialized, which can also be the case with city projects resulting in work cancellation.

If minority vendors have not heard from the prime to schedule their work, the table shows the order of who to contact to find out the status. Subcontractors are encouraged to keep close communications with the prime to understand better where they are in the process, advises Ms. Richardson.

The most protuberant difference perhaps is the last item in the table regarding the selection of the awardees of city projects vs. third party agreements projects. The Economic Development Department (EDD), which manages Third Party Agreements contracts and the selection of the final candidate, brings the potential developer to meet with local chambers of commerce and SMBR officials prior to council approval. Upon which, the EDD will begin a series of negotiations with the developer to determine terms and conditions that are deemed confidential and inaccessible to the public until they are presented to council for final consent.

As a result, some minority engineers have expressed frustration for missing potential opportunities during the design phase of these third party agreements projects. Prompted by the Asian Contractor Association, the city is now looking into the possibility of including the three minority trade associations in the introduction to these candidates in the future.

Compliance Items	City Project	Third Party Agreements Project
Minority Participation Goals	Yes	Yes
Good Faith Efforts <b>2-9(A-D)-21</b>	Required	Required
Request for Change of Sucontractors <b>2-9(A-D)-23</b>	Yes with approved Request For Change (RFC)	Required ONLY when specified in the 3 <sup>rd</sup> Party Agreement/ Contract)
Change to Scopes of Work for Subcontractors <b>2-9(A-D)-24</b>	Yes and requires a RFC	Must notify SMBR
Cancel Scope of Work for Subcontractors <b>2-9(A-D)-24</b>	Yes, and requires a RFC	Must notify SMBR
Who to Contact for Work that Has Not Been Performed?	1 <sup>st</sup> – Prime Contractor 2 <sup>nd</sup> – COA Project Manager 3 <sup>rd</sup> – SMBR	1 <sup>st</sup> – Prime Contractor 2 <sup>nd</sup> – SMBR
Identify final project candidate and conduct outreach to community before council approval	No	Local Chambers and SMBR

(Table constructed with assistance from SMBR Assistant Director Debra Dibble)



(Above photo: courtesy of AISD Vietnamese Dual Language Program)

## Who is Who at City Hall



Owner of three successful Subway restaurants in Austin, Thuy Nguyen found life's fulfillment not by building her franchise business but by passing on a legacy to the next generation.

Fueled by a passion for her Asian heritage, Thuy has spent the last few decades educating Austin children the Vietnamese language and culture through the AISD English-Vietnamese Dual Language Program she established singlehandedly, currently enrolling 300 students from kindergarten all the way to 8th grade.

Thuy also runs a foundation she started from \$0 funding to now awarding \$12,000 per year in scholarships. Last year she was appointed to serve on the City of Austin Asian American Quality of Life Commission. Working full time at Summit Elementary, Thuy gave credit to her great managers and employees at the restaurants for indulging her and affording her time to head the language program. "Great employees are hard to find, but if one knows how to build personal relationships with the employees, understand their needs, be

flexible, but not without a well-defined structure, they can be your loyal friends for as long as 20 years," she said. "I help them with car loans and personal crisis. I treat them like my children. If you treat them right, they will treat you right, and they bring their family and relatives to work for you."

The compassion she has for people today came almost as mea culpa after she went from riches to rags literally overnight four decades ago. Born with a silver spoon in her mouth, Thuy knew only of a privileged and pampered lifestyle with maids, cooks, chauffeurs, and seamstresses surrounding a family of 11 children with kid-glove services 24 hours a day. "I was a spoiled and demanding brat," said Thuy. However, that all changed the year she turned 18 when Saigon fell to the communists. In one day, they were homeless and were forced out of their beloved country.

Packed with over one thousand passengers among whom Thuy and her family, the fleeing ship set sail on an open sea into the unknown. For seven days without food at sea, she witnessed death upon death including many young children. The deaths and the agony she saw in her fellow refugees searching desperately for their lost family members haunted her for many years and forever changed her view of humanity.

Though speaking not a word of English and never having to lift a finger in her whole life, Thuy knew she must step up to help her family survive in a foreign land. She and her brother took their first jobs working the grave yard shift at a Dunkin' Donuts in San Antonio, where they were promised training and pay but received neither. In two weeks, she figured out how to make American donuts, thanks to the Home Economics class she took back home. She showed the sales to the owner and vehemently demanded pay. She got both her and brother their rightful compensation, and later Thuy and her family together bought their first Dunkin' Donut franchise in Austin.

It is perhaps this human instinct to live, her will to triumph from the ashes, and the love for her family that paved the way for her successes today in America. She is especially proud of the Vietnamese Dual Language Program. The Dragon and Lion Dance team from the program is responsible for all the dragon dance performances seen around town. The program also made history early this year by bringing 40 students and parents on an immersion trip to Vietnam for the first time since its inception over 20 years ago. Her passion for children and her refusal to take no for an answer not only made her a strong advocate for the program, but also unequivocally a constant and formidable presence in the Asian community.



### **City of Austin Seeking Applications for Food & Beverage Concessions**

The City of Austin Parks and Recreation Department (PARD) is seeking applications from experienced mobile food vendors to provide healthy, pre-prepared, or short-order food and beverage service to park patrons at Barton Springs Pool in Zilker Park. Applications are due no later than 5:00 p.m., Monday, July 11, 2016. <http://austintexas.gov/news/city-austin-parks-and-recreation-department-seeking-applications-food-beverage-concessions-barton-springs-pool-zilker-park>

### **City of Austin Celebrates Immigrant Heritage Month**

The City of Austin Commission on Immigrant Affairs, in partnership with FWD.us recognized Immigrant Heritage Month 2016 with a press conference at 3:00 p.m. at City Hall on June 29th, immediately followed by a reception in the City Hall Atrium.

With the local theme, “Welcoming the World at Your Doorstep,” this effort is part of a nation-wide celebration of Immigrant Heritage Month, an initiative bringing together community organizations, elected officials, corporations, media outlets, athletes, artists and thought leaders to gather and share inspirational stories of American immigrants. Other participating cities include Chicago, Boston, NYC, San Francisco, and Los Angeles.

### **What the Healthcare Law Means for Your Small Business**

Find out how to navigate the opportunities in health care through the Affordable Care Act 101 webinar series. Registration is free, but required. **Thursdays | 2pm - 3pm ET July 7, and July 21, 2016**

To register for the webinar and for more information on what the health care law means for small businesses, check out [www.sba.gov/healthcare](http://www.sba.gov/healthcare).

### **How to Start a Business in the U.S. as a Foreign National**

if you're looking to start a business in the U.S. as a foreign national or alien, you'll no doubt have questions. What are the immigration requirements? How do you get started? What tax obligations must you adhere to? Can you get financing from U.S. banks?

While it's advisable to get the help from trusted experts including lawyers and accountants, please go to the link below to see some basic considerations to get you started. (<https://>

[www.sba.gov/blogs/how-start-business-us-foreign-national](http://www.sba.gov/blogs/how-start-business-us-foreign-national) )

### **How Wearable Tech Can Help You Achieve Better Business Performance**

It takes stamina and energy to run a business. Not only that, but study after study shows that improved fitness actually helps to increase brain power – and helps maintain that mental edge longer in life.

Wearable tech for fitness purposes refers to any device, accessory such as a watch, or article of clothing that monitors various body functions and conditions such as heart rate or breathing, and sends you back information so you can make better decisions about your health and fitness.

Some wearable tech items still in early stages of experimentation may be expensive but small fitness trackers can be had for under \$25 -- well within the budget of startup entrepreneurs.

### **Take Your Business Global - An Introduction to Exporting**

This self-paced course is intended to be a guide for small businesses to help determine if exporting, as a business strategy, makes sense and whether the basic ingredients for export readiness are in-place. The course length is 30 minutes. Log on to: <https://www.sba.gov/tools/sba-learning-center/training/take-your-business-global-introduction-exporting>

### **A Recap of National Small Business Week 2016**

SBA Administrator Maria Contreras-Sweet kicked off National Small Business Week 2016 on May 1st at the Smithsonian National Museum of American History in Washington, D.C. at a dinner honoring “entrepreneurs, mom and pops, manufacturers, hackers, disruptors, and innovators”. SBA hosted events and celebrated entrepreneurship in the nation's capital, New York City, Denver, Phoenix, and the Bay Area with special guests. Events were live-streamed and archived videos are available through the SBA's YouTube channel.

In D.C., Helen Russell and Brooke McDonnell, co-founders of Equator Coffees & Teas, received the 2016 National Small Business Persons of the Year. After the event, Russell said, “Only in this country can you start in a garage and then fast forward to having ninety employs 350 wholesale customers four retail stores and continue to layer the company to add jobs”. More on <https://www.sba.gov/blogs/recap-national-small-business-week-2016>