

Substitution of Subcontractors

The substitution of subcontractors is governed under the Subletting and Subcontracting Fair Practices Act (Public Contract Code Sections 4100-4113). It applies to all subcontracts in excess of one-half of one percent (.5%) of the total contract bid and provides in part:

- Prime contractors to identify all subcontractors performing work on the project in excess of .5% of the total contract bid*.
- Prime contractors who do not identify a subcontractor to perform any work in excess of .5% must be fully-qualified and agree to perform that portion of the work.
- A prime contractor whose bid is accepted may not substitute another subcontractor in place of the originally identified subcontractor unless HACLA consents to the substitution of another subcontractor. HACLA may only allow the substitution in limited circumstances.

*Note: HACLA requires that all subcontractors be identified, regardless of percentage amount, in order to comply with required wage compliance monitoring.

Permitted Substitution of Subcontractors

HACLA may only allow the substitution in the following situations:

- When the listed subcontractor, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract for the scope of work specified in the subcontractor's bid and at the price specified in its bid.
- When the listed subcontractor becomes insolvent or the subject of an order for relief in bankruptcy.
- When the listed subcontractor fails or refuses to perform his or her subcontract.
- When the listed subcontractor fails or refuses to meet the bond requirements of the prime contractor.
- When the prime contractor demonstrates to HACLA that the name of the subcontractor was listed as the result of an inadvertent clerical error.
- When the listed subcontractor is not licensed pursuant to the Contractors License Law.
- When HACLA determines that the work performed by the listed subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, or that the subcontractor is substantially delaying or disrupting the progress of the work.
- When the listed subcontractor is ineligible to work on a public works project pursuant to sections 1777.1 or 1777.7 of the Labor Code.
- When HACLA determines that a listed subcontractor is not a responsible contractor.

Note: Prior to approval of the prime contractor's request for the substitution, HACLA is required to give written notice to the listed subcontractor of the prime contractor's request to substitute and of the reasons for the request.