

# LOWER-TIER SUBCONTRACTING: FAQ Fact Sheet



## Does Webber allow lower tier subcontracting?

Only under specific circumstances does Webber allow lower tier subcontracting.

## Under what circumstances does Webber allow lower tier subcontracting?

Webber subcontractors are allowed to further subcontract at lower-tiers under the following circumstances:

- The preferred lower tier subcontractor has been approved by Webber and the owner prior to executing a subcontract.
- All Webber contract provisions, including insurance requirements have been passed down to the lower tier subcontractor.
- All owner contract provisions have been passed down to the lower tier subcontractor.
- The lower tier subcontractor is aware of and understands Webber, owner, and regulatory requirements such as complying with jobsite security, OSHA, prompt pay, and Davis Bacon.
- The owner's written approval of the lower-tier subcontractor must be received by Webber prior to initiating work.

## What if I'm a DBE subcontractor?

DBEs may also engage lower-tier subcontractors. However, DBEs are required to self-perform a minimum of 30% or greater of the work scope in order to meet commercially useful function requirements.

Further, only the work self-performed by the DBE may be counted toward Webber DBE goals. If the lower tier subcontractor is not a DBE, Webber's ability to meet its DBE goals may be negatively impacted. If the lower tier subcontractor is also a DBE, its work may count toward the Webber DBE goal pending owner approval.

Given the complexity of the DBE requirements, the following additional conditions must be met:

- The first-tier DBE subcontractor must notify Webber immediately of its intent to use one or more lower-tier subcontractors;
- If the intent to use lower-tier subcontractors is known at the time of bid, DBEs must inform Webber Estimating and Procurement personnel so that the information can be incorporated into Webber DBE Commitment Forms;
- The first-tier DBE must ensure that the lower tier DBE is performing work within its approved certification categories (NAIC code(s)) and that commercially useful function requirements are met; and

- The independent control and day-to-day operations of each DBE must be maintained (including the use of jobsite personnel, equipment, material, etc.).

NOTE: If a DBE knowingly fails to obtain approval of lower tier subcontractors and reports its work on a project as 100% self-performed, this may constitute fraud. In cases of fraud, Webber will take immediate action including but not limited to subcontractor termination and reporting the fraudulent activity to the contracting authority.

## If I am lower tier subcontractor and I'm having issues with the first tier subcontractor, what should I do?

While Webber does not have a contractual relationship with lower tier subcontractors, there are circumstances under which lower tier subcontracting can negatively impact a Webber project. In light of this, Webber Operations personnel are available to any and all approved subcontractors, suppliers, and manufacturers associated with Webber projects.

Webber Project Managers should be contacted immediately if any of the following conditions occur:

- The first tier subcontractor exhibits indications of financial instability;
- Prompt payment provisions are not met;
- Explicit or implied direction is given that is in conflict with local, state, or federal regulatory compliance requirements;
- Fraudulent, unlawful, or unethical business practices occur; or
- Any activity or action occurs that could impede Webber's successful delivery of its project.

## I need further clarification. Where can I go for help?

Webber is committed to the success of its subcontractors. Our commitment to delivering quality work, on time and on budget, in part depends on our ability to successfully partner with companies of all sizes and capacities. We understand the challenges associated with navigating the contractual environment of publicly funded projects and we have resources to help.

Subcontractors seeking guidance on active Webber projects should contact the assigned Webber Project Manager. Subcontractors seeking opportunities or preparing quotes for upcoming Webber pursuits should contact the Webber Estimating Department or appropriate regional Webber Procurement personnel. Visit [www.wwebber.com](http://www.wwebber.com) for regional office information.