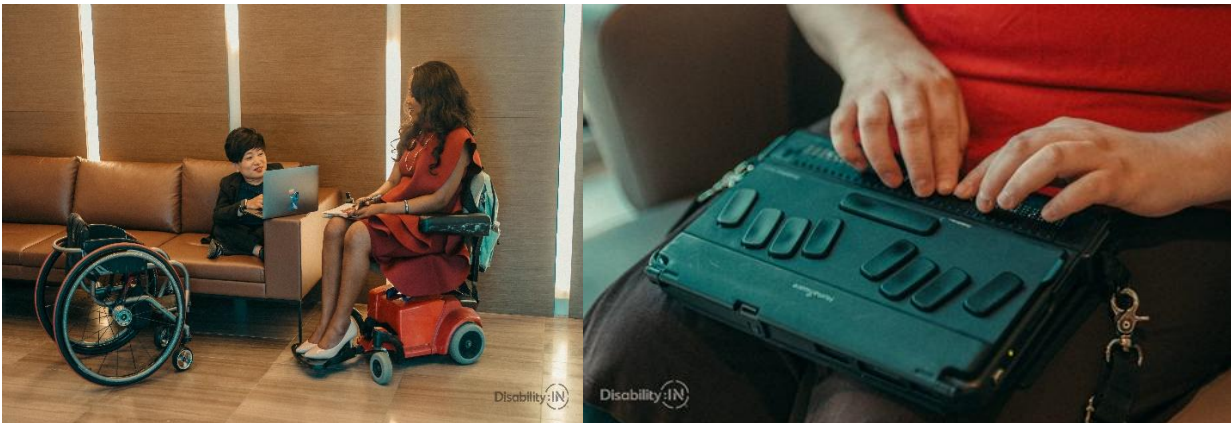




**The Commonwealth of Massachusetts Supplier Diversity Office
Empowering Abilities in Contracting and Employment (EACE)
Program Policy**



(see Appendix A for permissions)

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SDO Individuals with Disabilities Pilot Program Policy

Background

Pursuant to Section 4 of Chapter 219 of the Acts of 2016 and Section 88 of Chapter 154 of the Acts of 2018 (the Acts), the Supplier Diversity Office (SDO), in collaboration with the Massachusetts Office on Disability (MOD), established the SDO Individuals with Disabilities Pilot Program. During the pilot operation, SDO built inclusivity of the disability community into state contracting and procurement through contracting opportunities and workforce development.

This policy expands on the initial pilot program and establishes additional operational guidelines and requirements of the Empowering Abilities in Contracting and Employment (EACE) Program.

Individuals with Disabilities Pilot Program Applicability

The applicable chapters and sections in the Acts of 2016 and 2018 were enacted to increase opportunities for individuals with disabilities in contracting and procurement with the Commonwealth, and to increase representation of people with disabilities in the workforce. The Acts directed the SDO to provide opportunities for individuals with disabilities in all areas of state procurement and contracting. This empowered the SDO to focus on the inclusion of Disability-Owned and Service-Disabled Veteran-Owned business enterprises as part of their mission of diverse business inclusion by establishing the Individuals with Disabilities Pilot Program.

The SDO set and consistently met its biennial goals for the Individuals with Disabilities Pilot Program. The program's initial goals included expanding the SDO's website to include specific disability-employment resources for individuals with disabilities seeking employment and employers looking to diversify their workforce. The program incorporated two continuous objectives relating to diversifying state contract recipients and workforce development into its biennial goals:

1. Conducting outreach to Disability-owned and Service-Disabled Veteran-owned businesses to ensure consistent information and updates regarding SDO Diverse Business Certification and contracting opportunities with the Commonwealth; and
2. Collecting disability employment data from vendors on three Statewide Contracts to determine to what extent vendors are recruiting, interviewing, hiring, retaining, and promoting individuals with disabilities in the vendors' workforce.

After several years of continued progress, the biennial goal of FY2023 included expanding the pilot to a full-fledged program, which has since been named Empowering Abilities in Contracting and Employment (EACE) Program.

Empowering Abilities in Contracting and Employment (EACE) Program Policy

Applicability

The representation of Disability-Owned Business Enterprises (DOBEs) and Service-Disabled Veteran-Owned Business Enterprises (SDVOBEs) in state contracting and procurement has increased since the Individuals with Disabilities Pilot Program was established. The success related to the inclusion of the disability community has extended to workforce development as well. As such, the pilot is ready to transition into a full program to allow for additional growth and progress. The overarching objectives of the program reflect the two pillars that brought about the pilot's success:

1. Promote the further inclusion of Disability-Owned Business Enterprises (DOBE) and Service-Disabled Veteran-Owned Business Enterprises (SDVOBE) in statewide contracting and procurement through outreach and engagement, specifically at events for the disability community; and
2. Expand the workforce development piece of the EACE Program by including participation provisions in more statewide contracts with the ultimate intention of being on all statewide contracts.
 - a. While not articulated as an initial focus of the EACE program, departmental contracts may include participation provisions in the future, following a program assessment review that will be conducted one year after the program's start date.

Program Goal – DOBE and SDVOBE Outreach and Engagement

Annual increases in the number of Disability-Owned and Service-Disabled Veteran-Owned businesses that are certified with the SDO reflects the success of outreach and engagement efforts. As the Individuals with Disabilities Pilot transitions to the EACE Program, outreach and engagement will continue to be at the forefront of the program's work, with additional focus on events and opportunities held by and for the disability community.

To increase spending with DOBE and SDVOBE businesses and increase the participation of those diverse businesses in state contracting and procurement, DOBEs and SDVOBEs are encouraged to participate in the Supplier Diversity Program (SDP) where certified diverse vendors can partner with prime contractors. Businesses will receive the same resources and support for competing as prime vendors as well.

Partnerships with other agencies like the Massachusetts Office on Disability (MOD), Massachusetts Commission for the Blind (MCB), Massachusetts Commission on the Status of Persons with Disabilities (SPD), MassAbility, as well as many others, provide a direct connection to business owners with disabilities who may benefit from certification. These partnerships also connect the EACE Program to individuals with disabilities who are seeking employment.

Program Goal – Workforce Development

The EACE Program seeks to increase the representation of people with disabilities working on state contracts by supporting contractors on statewide contracts. Specifically, the EACE program assists contractors with the identification, recruitment, and hiring of qualified individuals with disabilities within the contractor's workforce(s). The program seeks to ensure that at least 3% of contractors' workforces are people with disabilities.

While the SDO Individuals with Disabilities Pilot Program had a 7% goal for workforce participation pursuant to section 88 of Chapter 154 of the Massachusetts Session Law Acts of 2018, annual reporting from participants, as well as the Commonwealth's own efforts to identify employees with disabilities through employee self-identification programs, support adjusting the workforce participation goal to 3%. As a result, the EACE program has set a goal of 3% for the inclusion of qualified individuals with disabilities to:

- The direct workforce needs of the awarded contract (businesses with more than 50 employees); or
- The entire workforce of the contractor (businesses with 50 or fewer employees)

The utilization goal shall not be used as a quota, limit, or restriction on the employment of individuals with disabilities. The EACE program shall promote the recruitment, hiring, promotion, and retention of individuals with disabilities and assist state contractors in evaluating and measuring levels of success in the recruitment, hiring, promotion, and retention of individuals with disabilities.

An overarching goal of the EACE program is to increase the number of statewide contracts participating in the program. Starting July 1, 2025 (FY2026) all newly established statewide contracts will include EACE Program provisions in their request for response (RFR).

The pilot included contracts covering three types of services: janitorial and custodial services; office supplies; and a food services contract with the Department of Developmental Services. The SDO's enabling legislation allows the program to add additional service contracts, including but not limited to:

- Janitorial and custodial services
- Landscaping services
- Mail room services
- Food services
- Fleet management
- Manufacturing
- Trash removal
- Document destruction
- Electronic scanning of documents
- Facilities management services which shall include, but not be limited to, HVAC services, painting, emergency repair services and snow removal

The Supplier Diversity Office, Massachusetts Office on Disability, and Vendor Responsibilities

Supplier Diversity Office (SDO)

The SDO, in partnership with the Governor's Office for Access and Engagement, provides overall coordination and oversight of the Commonwealth's Executive Branch diverse and small business programs. This includes, but is not limited to, issuing policies and guidance, calculating benchmarks, providing program resources, promoting business opportunities to diverse and small businesses, ensuring compliance with program requirements, and publishing the annual report with final program results for all departments.

In relation to the EACE Program, the SDO shall oversee the program in consultation with the MOD and seek to ensure its continued expansion and success. The SDO shall also work with the Operational Services Division (OSD) to incorporate the EACE Program into statewide RFR contract template language. Per the EACE Program Applicability section, an assessment of the program will be conducted one year after the implementation date; this assessment will be conducted by the SDO.

Massachusetts Office on Disability (MOD)

The MOD provides information, guidance, and training on disability-related civil rights and architectural access to public and private entities as well as consumers. This includes providing training and technical assistance on disability rights laws and serving as the Americans with Disabilities Act Coordinator for the executive department. In addition to the MOD serving as a consulting agency, the MOD will also serve as a resource for vendors seeking to hire individuals with disabilities and members of the disability community seeking employment.

Additionally, the MOD will meet with the SDO annually to review program status.

Statewide Contract Vendors

Each statewide contract vendor this policy applies to is responsible for the implementation of this policy and ensuring compliance with its provisions. Each vendor shall appoint and supply contact information for a liaison who shall be the central point of contact for questions regarding the vendor's workforce programs. All vendors must provide this information within 60 days of the contract start date. Should a vendor fail to explicitly appoint a designee, the position shall default to the vendor's contact person listed in the contract user guide. Vendors are also required to submit annual data and report on efforts to recruit, interview, hire, promote, and retain individuals with disabilities in their workforce. Vendors should email Emily Maguire, EACE Program Coordinator, at Emily.Maguire@mass.gov when appointing their liaison or making any liaison changes.

Enhancing the Inclusion of People with Disabilities in the Supply Chain

Meeting program goals depends on the availability of diverse and small vendors on contracts. To accomplish these goals, departments must attract more diverse and small vendors to their procurements. When planning and conducting procurements, departments must identify potential diverse and small bidders, identify and remove barriers for their participation, and collaborate with the SDO to encourage diverse and small business participation. The table below demonstrates the steps departments should take to attract more diverse and small vendors to their procurements.

Contracting with People with Disabilities	Ensuring Compliance with State and Federal Law
<ul style="list-style-type: none">• Make a list of potential small and diverse vendors• Include small and diverse vendors in industry and vendor research• Consider regional and category-based awards to create options for small and diverse businesses• Post notice of the department's planned procurement in the Business Opportunity Exchange tool in the Supplier Diversity Hub• Contact the SDO to help notify small and diverse vendors of the upcoming opportunity	<ul style="list-style-type: none">• Americans with Disabilities Act of 1990 (ADA) (prohibiting disability discrimination by employers with 15 or more employees) and the ADA Amendments Act of 2008• Section 503 of The Rehabilitation Act of 1973 (prohibiting disability discrimination by employers working on federally-funded contracts)• Massachusetts General Law Chapter 151B (prohibiting disability discrimination by employers with six or more employees)• Article 114 of the Amendments to the Commonwealth Constitution (prohibiting disability discrimination for any program or activity within the Commonwealth)

Differences Between the Individuals with Disabilities Pilot Program and the EACE Program

The transition from the Individuals with Disabilities Pilot to the EACE Program will occur as the three existing contracts for the pilot are replaced or rebid, and the EACE Program terms are added to the new statewide contracts. Similarly, as other statewide contracts come to their term end and are replaced with a new contract or rebid, EACE Program participation terms will be added to the request for response (RFR) and subsequent contract.

Additional changes that differentiate the EACE Program from the Individuals with Disabilities Pilot are outlined below:

	Individuals with Disabilities Pilot	EACE Program
Workforce participation goal	7%	3%
Contract Applicability	Certain statewide contracts under the following categories: <ul style="list-style-type: none">• Janitorial and custodial services• Landscaping services• Mail room services• Food services• Fleet management	All statewide contracts (any category)

	<ul style="list-style-type: none"> • Manufacturing • Trash removal • Document destruction • Electronic scanning of documents • Facilities management services 	
Vendor Applicability	All vendors on contract	All vendors on contract
Data collection	Via Formstack or MS Forms survey	Via the Supplier Diversity HUB
DOBE inclusion	Focused on DOBE / SDVOBE becoming prime vendors	Encouraging DOBE / SDVOBE participation as SDP partners and/or prime vendors
DOBE and SDVOBE Spending Benchmarks	SDVOBE and VBE were included in 3% overall Veteran benchmark for each agency's discretionary budget	SDVOBE remains in the Veteran 3% benchmark. An Individuals with Disabilities (including DOBE and SDVOBE) 0.3% benchmark for agency's discretionary budget was effective July 1, 2023

Eligible EACE Program Supplier Diversity Partners

As stated under the “Program Goal - Outreach and Engagement” section of this document, the EACE program will have additional focus on educating vendors on the benefits of state certification, the Supplier Diversity Program (SDP), and becoming a supplier diversity partner or a prime vendor. Eligible EACE Program supplier diversity partners include:

- Disability Owned Business Enterprises (DOBE)
- Service-Disabled Veteran-Owned Business Enterprises (SDVOBE)

To be considered valid supplier diversity partners, companies in the above categories must be listed in the [SDO Directory of Certified Businesses](#) or the [U.S. Small Business Administration's Veteran Small Business Certification directory \(VetCert\)](#).

Workforce Efforts Reporting Requirements

Pursuant to the Statewide Contract Vendor responsibilities, vendors who receive sales from a statewide contract during a state fiscal year are required to submit annual data and report on their efforts to recruit, interview, hire, promote, and retain individuals with disabilities in their workforce. This annual data shall be submitted via the "Disability Reporting" tool in the Supplier Diversity Hub ("The Hub") prior to the end of each calendar year. Notifications to vendors shall be sent 60 days, 30 days, 15 days, and five days prior to the submission deadline. Failure to supply disability employment data may result in the removal from the Statewide Contract. Vendors who do not receive sales from a statewide contract during a state fiscal year are encouraged to voluntarily report this data.

Data Privacy

Information collected through the program will not identify specific individuals and will not include PII (publicly identifiable information). However, information submitted by businesses may be subject to disclosure under the public records law, M.G.L. ch. 66 § 10. Any records subject to disclosure will be redacted as necessary and in conformance with the public records law.

Implementing, Monitoring, and Enforcing Compliance of the EACE Program

Prime Contractor Awareness

The SDO must ensure that potential prime contractors understand the EACE program requirements that apply to them. This will reduce the need for subsequent compliance, enforcement, and corrective action measures. The following measures are recommended:

Before Contract Award
<ul style="list-style-type: none">• SDO and OSD incorporate EACE Program terms into RFR templates for use by procuring agencies¹• SDO representatives attend bidders' conference or provide content to be presented at bidders' conference by procuring agency
After Contract Award
<ul style="list-style-type: none">• The SDO and/or the procuring agency provides policies and resources to vendors

Prime Contractor Reporting

While prime contractors will not be penalized for failing to hit the workforce participation goals set forth in this policy, the SDO will monitor reporting on an annual basis. Prime contractors must register for a Supplier Diversity Hub account to report their progress year over year as instructed by the contract. Failure to complete required reporting may result in contract penalties.

- Prime contractors who have received sales from a statewide contract during the state fiscal year must submit information by the end of the calendar year via the Supplier Diversity Hub.
- Prime contractors who have not received sales from a statewide contract during the state fiscal year are encouraged to submit information via the Supplier Diversity Hub but are not required to do so.

Prime Contractor Compliance

The EACE program provisions of a contract are considered material terms, and participation in the EACE program for applicable vendors is part of the terms and conditions of the contract. As a result, the contracting department (Operational Services Division [OSD]) in its discretion may impose corrective action measures or terminate or suspend a contract for failure to comply. The SDO will work with the contracting department when a vendor is noncompliant with EACE provisions to determine appropriate steps.

For example, the department may:

- Institute a corrective action plan to establish benchmarks for vendor compliance with EACE provisions.
- Suspend the non-compliant contractor from entering into new engagements (while completing existing ones).

¹ Since the EACE program is only being incorporated into Statewide Contracts at this time, references to “procuring agency” or “procuring agencies” in this document refer to OSD unless they have designated another agency to conduct a Statewide Contract on their behalf.

- Renew the contract with a non-compliant contractor for a term that is significantly shorter than the renewal term for contractors in good standing (e.g. six months to a year for non-compliant vendors vs. two years for vendors in compliance) with further renewals being contingent on SDP compliance.
- Suspend or terminate a non-compliant contractor from the overall contract for egregious actions.

For more guidance on prime contractor compliance, please refer to the Operational Services Division's [Conducting Best Value Procurements Handbook](#).

Documentation

The SDO will maintain documentation of all communications with contractors to support any action taken to resolve non-compliance with the EACE Program.

Exceptions

This policy was designed to support prime vendors in their efforts to diversify their workforce. While participation in the EACE Program is required on the contracts in which program policies are included, the SDO may consider exemptions on a case-by-case basis.

To request an exemption or to suggest an alternative means of achieving program goals on a specific contract, vendors must send the request with supporting documentation to Emily.Maguire@mass.gov. Exemption requests must be submitted within 60 days of the contract's start date. The SDO will respond to all waiver requests within 10 business days.

Program Resources

- <https://www.mass.gov/info-details/disability-resources-for-employers> (Massachusetts Rehabilitation Commission Resources for Employers)
- <https://www.mass.gov/info-details/employment-rights-of-people-with-disabilities> (Employment Rights of People with Disabilities)
- <https://www.dol.gov/general/topic/disability/hiring> (U.S. Dept of Labor Resources for Hiring People with Disabilities)
- <https://askjan.org/> (Job Accommodation Network)
- <https://www.eeoc.gov/eeoc-disability-related-resources> (U.S. Equal Employment Opportunity Commission – EEOC Disability Related Resources)
- <https://askearn.org/> (Employer Assistance and Resource Network on Disability Inclusion)

Program Contact

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Appendix A

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Massachusetts Supplier Diversity Programs and Policies:

[Certification Program](#)

[Supplier Diversity Program \(SDP\)](#)

[Municipal Construction Affirmative Marketing Program \(MCAMP\)](#)

[Supplier Diversity Office Privacy Policy](#)