



The Commonwealth of Massachusetts Diverse and Small Business Program Policies for Goods and Services Procurements



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General SDO Program Policy

Background

[Executive Order No. 599, Reaffirming Programs to Ensure Diversity, Equity, and Inclusion for Diverse and Small Massachusetts Businesses in State Procurement and Contracting](#), directs the Supplier Diversity Office (SDO) to administer and oversee programs for all Executive Department agencies “to ensure consistent and measurable progress in expanding access and equity of opportunity in state contracting.” Consistent with the directive of the Executive Order, the SDO has established the following Program Policies. The sections below provide an overview of the Policy which compares the Supplier Diversity Program (SDP) and Small Business Purchasing Program (SBPP) followed by specific descriptions of each program.

General SDO Program Applicability

This policy applies to the acquisition of commodities and services by all Executive Departments (hereinafter “departments”) pursuant to MGL Chapter 7, Section 22; MGL Chapter 30, Sections 51 and 52; and 801 CMR 21.00. A separate policy is focused on the application of the SDP to the acquisition of client health and human services, also referred to as the Purchase of Service (POS). Another separate policy, known as the Affirmative Market Program, applies to the acquisition of construction and design projects.

The Supplier Diversity Office and Departmental Responsibilities

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, the certification of diverse and small businesses, issuing policies and guidance, calculating benchmarks, providing program resources, informing departments on their benchmark progress, ensuring compliance with program requirements, and publishing the annual report with final program results for all departments.

Each department is responsible for the implementation of this policy and ensuring that departmental staff and contractors comply with its provisions. Each secretariat and department shall appoint a liaison(s), known as either a Secretariat Supplier Diversity Officer (SSDO) or an Agency Supplier Diversity Officer (ASDO), who shall be the central point of contact for questions regarding the department’s diverse and small business programs. Should a department fail to explicitly designate an SSDO/ASDO, the position shall default to the department’s Chief Procurement Officer (CPO). Departments may designate a different SSDO/ASDO by informing the SDO at sdp@mass.gov.

Annual Departmental Benchmarks

Annual benchmarks for departmental supplier diversity and small business spending are set by the SDO and are subject to approval by the Secretary for Administration and Finance and the Governor’s Office for Access and Engagement. The benchmark spending amounts are based on applying current benchmark percentages to each department’s discretionary budget and, at the end of each fiscal year, to its discretionary spending.¹

¹ The SDO estimates each department’s discretionary budget at the beginning of each fiscal year, based on prior spending in a set of discretionary object codes. At the end of each fiscal year, the SDO uses actual spending in those object codes to calculate the department’s final benchmark amounts. Discretionary object codes for the year are published on the SDO’s [Program Resources for Departments webpage](#).

Program	Certification Type	Benchmark Percentage
Small Business Purchasing Program (SBPP)	Massachusetts-based Small Business	3.3%
Supplier Diversity Program (SDP)	Minority Business Enterprise (MBE)	8%
	Woman Business Enterprise (WBE)	14%
	Veteran Business, including Veteran Business Enterprise (VBE) and Service-Disabled Veteran-Owned Business Enterprise (SDVOBE)	3%
	Disability-owned Business Enterprise (DOBE)	0.3%
	LGBT Business Enterprise (LGBTBE)	0.3%

Spend Planning and Tracking Progress

On a regular basis, departments must enter planned procurements in the [SDO Supplier Diversity Hub](#). The purpose of the planning process is to identify purchasing, procurement, and contracting opportunities that will be available for diverse and small businesses and assist agencies in achieving the following goals:

- Meet or exceed all SDO benchmarks for the fiscal year
- Increase the total spending with diverse and small companies compared to the previous fiscal year
- Increase the number of diverse and small firms the department buys from compared to the previous fiscal year

The inclusion of all three goals recognizes the efforts and success of many departments and encourages to continue to expand their efforts in engaging diverse and small businesses. The SDO Hub enables departments to monitor their progress toward all three goals.

Meeting Benchmarks

Departments are required to make a good faith effort to meet all diverse and small business spending benchmarks. They may accomplish this in the following ways:

Program	Creditable Spending
Small Business Purchasing Program (SBPP)	Direct (Tier 1) Spending: Spending with prime contractors that are validated as Massachusetts-based Small Businesses
Supplier Diversity Program (SDP)	Direct and Indirect (Tier 1 and 2) Spending: Spending with diverse businesses of all certification types listed in the table above ²

Whenever a contract allows direct vendor selection, departments shall utilize diverse and small businesses to the extent possible based on contract terms, SDO and departmental policies, laws, and regulations. Additionally, departments shall make a preference for contractors with higher SDP commitments and/or spending whenever such a preference is feasible.³

Whenever a contract requires the solicitation of multiple quotes, departments shall, at a minimum, notify at least **two** diverse and/or small businesses capable of providing the product or service of the opportunity, if

² Note that to count toward SBPP or SDP spending, spending must be with firms registered as SBPP members within the COMMBUYS system or included in either the SDO's Directory of Certified Businesses or in another directory accepted by the SDO, respectively.

³ Contractor SDP commitments are provided by bidders in their SDP Plan Forms and, after contract award, become contractual requirements. For Statewide Contracts, SDP commitments are listed in the [Statewide Contract Contractor User Guides](#). Contractor SDP spending refers to the contractor's reported SDP spending compared to contract sales.

available.⁴ Furthermore, departments shall apply the SBPP Policy below and shall follow SBPP implementation guidance issued by the Operational Services Division (OSD).

Whenever a department conducts a new open-market procurement, the provisions of at least one program, SDP or SBPP, shall apply to all departmental and statewide procurements of commodities and services. The SDP shall serve as the default program in cases where the department is unable to reliably estimate the procurement size. See below for additional policies concerning new procurements and purchasing.

Fostering Diverse and Small Business Participation in Contracting

Meeting program goals depends on the availability of diverse and small vendors on contracts. **To accomplish this, 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.

The SDO's Cross-functional Team assists departments in promoting procurements. Departments should contact Katherine.L.Thomas@mass.gov for more information.

Research and Planning	Conducting the Procurement	Managing Contract and Vendor Relations
<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 	<ul style="list-style-type: none"> • Revise bid terms and conditions that could create a barrier for or negatively impact small and diverse bidder participation* • Contact the SDO to promote the opportunity • Direct potential small and diverse bidders to COMMBUYS, vendor training, and other resources • Train all vendors on SDP requirements • Use clarification, BAFO and negotiation • Conduct debriefings and give other types of feedback 	<ul style="list-style-type: none"> • Ensure agency buyers are aware of small and diverse contractors available for ordering/RFPs • Ensure submission of SDP reports in the Supplier Diversity Hub or other appropriate system** • Ensure compliance with SDP commitments** • Conduct a small/diverse business certification drive for existing contractors

* Note that the Commonwealth Terms and Conditions and Standard Contract Form may not be modified, nor may be the required solicitation language be modified.

** Procurements with estimated values exceeding \$250,000 annually.

⁴ On contracts that have one small or diverse vendor, this vendor must be notified. Contracts that have no small or diverse vendors are exempt from this requirement.

The Small Business Purchasing Program (SBPP) Policy

Summary of Policy Requirements

Applicability

The revised policy applies to all new commodities and services procurements and RFQs from existing statewide and departmental contracts for commodities and services posted on or after July 1, 2021.

Program Goal

The SBPP promotes the utilization of small businesses in the Commonwealth's goods and services contracting through direct purchasing from, and contracting with, small businesses.

Eligible Businesses Included in the SBPP

COMMBUYS, the Commonwealth's online procurement marketplace, is the system of record for the SBPP. SBPP participating small businesses are identified in COMMBUYS with a "Certified" SBR tag.

Purchasing from Small Businesses

Whenever a contract allows direct vendor selection, departments shall utilize diverse and small businesses to the extent possible based on contract terms, SDO, OSD, and departmental policies, laws, and regulations.

SBPP Requirements for Competitive Solicitations

Small Business Award Preference and its Inclusion in the Solicitation: All Small Procurements (RFRs and RFQs with an estimated annual value equal to or less than \$250,000) must include the SBPP Contract Language, stating that the department intends to award a contract to a Massachusetts-based Small Business if a response from an eligible SBPP participant is received and meets the department's best value criteria. Such language must be prominent within the main part of the solicitation document, and not only as part of an attachment or appendix. The SBPP contract language shall be provided by OSD in consultation with the SDO. For guidance regarding best value, consult with OSD.

The SBPP contract language is included in the *RFR-Required Specifications for Commodities and Services* document and in the RFR templates found on the [OSD Forms](#) webpage. The language is also provided on the [SDO Program Resources for Departments](#) webpage.

Participation of Large Businesses: While all businesses interested in bidding on Small Procurements may do so, it is the intention of the SBPP to only evaluate bids received from, and to award a contract to, an SBPP-participating bidder that meets the Department's best value criteria. An award may be made to a non-SBPP eligible bidder if no responses are received from an eligible small business or if responses received from an eligible small business do not meet the requirements of the Small Procurement. Responses received from an SBPP participant shall not be disqualified based on price or desirable criteria unless the Department conducts a clarification, Best and Final Offer (BAFO) and/or negotiation, and these efforts are unsuccessful.

Inclusion of Small Businesses in Large Procurements

While the SBPP preference does not apply to Large Procurements (estimated annual value greater than \$250,000), departments are encouraged to engage in the following best practices:

- Set small business award goals for procurements
- Provide an evaluation preference for SBPP-participating bidders
- Promote the procurement to possible SBPP-participating bidders

Compliance and Quality Assurance Reviews of SBPP Procurements

The SDO's Compliance and Quality Assurance Unit shall review and enforce department compliance with SDO programs, policies, and benchmarks and take appropriate compliance, enforcement, and corrective action measures.

The Supplier Diversity Program (SDP) Policy

Summary of Policy Requirements

Applicability

The revised policy applies to all new commodities and services procurements posted on or after July 1, 2021. It does not apply to rolling enrollment procurements issued prior to that date or re-openings of existing open enrollment procurements originally posted prior to that date.

Program Goal

The Supplier Diversity Program (SDP) promotes the utilization of diverse businesses in the Commonwealth's goods and services contracting through:

- **Direct (Tier 1) purchasing from and contracting with diverse businesses:** This type of contracting results in departments making direct payments to diverse businesses.
- **Indirect (Tier 2) business-to-business partnerships between the Commonwealth's prime contractors and diverse businesses:** Such partnerships result in prime contractors making payments to diverse businesses and may be either ancillary/operational or subcontracting relationships.

Eligible Businesses Included in the SDP

The diverse business categories included in the SDP are:

- Minority-Owned Business Enterprise or Nonprofit Organization (MBE or M/NPO)
- Women-Owned Business Enterprise or Nonprofit Organization (WBE or W/NPO)
- Veteran-Owned Business Enterprise or Nonprofit Organization (VBE or V/NPO)
- Service-Disabled Veteran-Owned Business Enterprise (SDVOBE)
- Disability-Owned Business Enterprise (DOBE)
- LGBT-Owned Business Enterprise (LGBTBE)

To be considered valid SDP participants, 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 \(VetCert\) Directory](#).⁵

Purchasing from Diverse Businesses

Whenever a contract allows direct vendor selection for purchasing, departments shall utilize diverse and small businesses to the extent possible based on contract terms, SDO and departmental policies, laws, and regulations. Additionally, departments shall make a preference for contractors with higher SDP commitments and/or spending whenever such a preference is feasible.⁶

⁵ The SDO partners with several third-party certification organizations, whereby the SDO recognizes their certifications for inclusion in specific diverse business categories in the SDO Directory of Certified Businesses or an additional directory(ies) (e.g. SBA Veteran Small Business Certification (VetCert)). Therefore, the list of businesses participating in SDO programs is expected to grow. Please contact the SDO at sdp@mass.gov for assistance in finding certified diverse businesses.

⁶ Contractor SDP commitments are provided by bidders in their SDP Plan Forms and, after contract award, become contractual requirements. For Statewide Contracts, SDP commitments are listed in the [Statewide Contract Contractor User Guides](#). Contractor SDP spending refers to the contractor's reported SDP spending compared to contract sales.

Supporting Direct Contracting with Diverse Businesses

Departments may not award evaluation points to diverse businesses based on their certification. Instead, departments are instructed to follow the steps listed in the [Fostering Diverse and Small Business Participation in Contracting](#) section of this policy.

Planning for Diverse Business Participation in a New Procurement⁷

During the planning stages of a Large Procurement (estimated annual value greater than \$250,000), departments may need to tailor their approach to increasing diverse vendor participation to the industry and supplier base for the product or service being sought. Supplier diversity measures may include one or both of the following:

- **Focusing on direct spending** with diverse businesses, especially in industries with many potential diverse bidders
- **Fostering business-to-business partnerships** between prime contractors and diverse businesses, especially in industries with few or no potential diverse bidders

Departments are instructed to follow the steps listed in the [Fostering Diverse and Small Business Participation in Contracting](#) section of this policy to plan supplier diversity measures for their contracts.

SDP Requirements for Competitive Solicitations

Including SDP Language in the Solicitation: All Large Procurements (RFRs with an estimated annual value exceeding \$250,000) must include the SDP Contract Language, which shall be provided by OSD in consultation with the SDO. Such language must be prominent within the main part of the solicitation document, and not as part of an attachment or appendix. For guidance regarding best value, consult with OSD.

The SDP contract language is included in the *RFR-Required Specifications for Commodities and Services* document and in the RFR templates found on the [OSD Forms](#) webpage. The language is also provided on the [SDO Program Resources for Departments](#) webpage.

SDP Plan Form: Departments must use the SDP Plan Form in their bids and may not alter it without prior written approval from the SDO. To request approval, contact the SDO via email at sdp@mass.gov.

Promoting Program Awareness Prior to Bidding: Departments must help bidders understand the SDP requirements prior to submitting their bids. Investing time in this proactive measure reduces the need for compliance, enforcement, and corrective action measures. At a minimum, the SDP language of the solicitation must be prominent within the main part of the solicitation document, and not as part of an attachment or appendix. SDP contract language shall be provided by OSD in consultation with the SDO.

Additionally, the following measures are strongly recommended:

- **Pre-bid conferences and trainings:** Strategic Sourcing Teams (SSTs) are encouraged to include a summary of the SDP requirements and a review of the SDP Plan form in the pre-bid conference. This information may be delivered by the contract manager or by the SDO. To request SDO presence at the pre-bid conference, please email sdp@mass.gov. In addition, the SDO will make SDP presentation slides available to department contract managers who opt to deliver the SDP information themselves at their pre-bid conferences.
- **Written Bid Q&A:** Posting SDP-related questions and answers under the Bid Q&A tab of the solicitation in COMMBUYS. You can download a copy of the SDP frequently asked questions and attach it to the bid documents. The SDP frequently asked questions are located on the [Program Resources for Departments](#)

⁷ While the focus of the SDP is on diverse businesses, SDO data shows that more than 90% of diverse businesses are also small. As a result, planning for diverse business participation should include business size considerations particular to the industry of the procurement.

webpage.

- **SDP Commitment:** The following provisions apply to SDP Commitments made by Bidders and Contractors:
 - Bidders responding to a bid solicitation requiring an SDP Plan must provide an SDP commitment in the form of a specific percentage of sales from the resulting contract to be spent with Certified Partner(s)
 - Bidders are required to have at least a 1% SDP commitment, and no contract requiring SDP shall be awarded without an SDP commitment
 - Fixed dollar-amount commitments are not allowed--this ensures fair bid evaluations and allows for SDP spending expectations to adjust based on the overall value of the resulting contract
 - The SDP commitment must be met annually for the life of any resulting contract

Thorough Evaluation: The evaluation of SDP plans must reward vendors with higher evaluation scores for those bidders with higher SDP commitments and higher likelihood of compliance. SDP plan evaluations must account for a minimum of 25% of the total evaluation score with at least 15% (of the total 25%) dedicated to the bidder's SDP commitment. Additional guidance is available in the [Best Value Evaluation of SDP Plan Forms: A Guide for Strategic Sourcing Teams](#).

Subcontracting vs. Ancillary Relationships: While the SDP Plan Form separates subcontracting and ancillary business-to-business relationships, this does not imply that one is more inherently valuable than the other. The total SDP commitment shall be used as a measure of each contractor's compliance with contract terms. Unless the RFR includes a specific desirable criterion for subcontracting or ancillary partnership spending, separate partnership types should not be assigned separate scores.⁸

Additional SDP Commitments on RFQs: When soliciting quotes from existing statewide or departmental contracts, the department may ask the prime contractor for an additional SDP commitment specifically related to the department's purchase or engagement. Please consult the SDO for guidance **prior** to exercising this option.

Clarification, Best and Final Offer (BAFO), and Negotiation: Departments are encouraged to include the SDP commitment into contract clarification, BAFO, and negotiation procedures. Consult the OSD [Conducting Best Value Procurements Handbook](#) for more information about conducting clarifications, BAFOs and negotiations.

Implementing, Monitoring and Enforcing Compliance of the SDP Plan

Contractor Awareness after Award: Departments must ensure that contractors understand the SDP requirements that apply to them after award. Continued focus on contractor awareness reduces the need for subsequent compliance, enforcement, and corrective action measures. The following measures are recommended:

- **Contractor on-boarding:** SSTs are encouraged to include a summary of the SDP requirements and review of the SDP reporting form(s) and process(es) into any contractor meetings at the start of the contract. This information may be delivered by the contract manager or by the SDO. To request SDO presence at a contractor on-boarding or another contractor meeting, please email sdp@mass.gov.
- **Distribution of the program summary document:** SSTs also are encouraged to distribute the "Contract Vendor Responsibilities" document, which is available at www.mass.gov/sdp.

Contractor SDP Reporting and Compliance Monitoring: Departments are required to monitor contractor compliance with their SDP commitments as follows:

- Agencies must use the SDO's [Supplier Diversity Hub](#) to collect contractor SDP spending reports. The

⁸ While the SDP allows subcontracting, some contracts may prohibit or have other conditions applicable to subcontracting (e.g. buyer approval prior to the use of subcontracting). Please consult contract RFR specifications and other terms to ensure that the SDP contract language is consistent with those terms.

SDO recommends quarterly reporting, but SDP spending information must be collected at least annually.

- Departments must enter newly-awarded contractor information into the SDO's Supplier Diversity Hub shortly after contract award and ensure that contractors log in and acknowledge their SDP commitments in the system.
- During the first year of the contract, departments must monitor contractor reports closely to ensure that contractors are on track to meet their SDP commitments (e.g. six months into the contract, the contractor must demonstrate meeting at least 50% of its year-to-date SDP commitment). The SDO recommends regular performance reviews to identify issues or problems in a timely, proactive manner.
- Departments must take action if the contractor does not submit an SDP spending report, if the report is incomplete, or if there are questions as to the validity of the information submitted.
- Departments must notify the SDO of any vendors not meeting their SDP commitment. The SDO Compliance team will work with you to help the vendor meet their obligation.

Resolving Compliance Issues: The SDP provisions of a contract are considered material terms, and a bidder's SDP commitment is a material obligation required by the contract. As a result, consequences of non-compliance are governed by the Suspension or Termination language of the [Commonwealth Terms & Conditions](#), which are signed by the contractor:

The Department [...] may terminate or suspend a Contract if the Contractor breaches any material term or condition or fails to perform or fulfill any material obligation required by a Contract.

The application of the above language includes, but is not limited to, the following:

- Suspending the non-compliant contractor from entering new engagements (while completing existing ones).
- Renewing 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.
- Choosing not to renew the contract for an additional term.

It is understood that suspension, termination, and non-renewal are measures of last resort and, as such, parties may negotiate to avoid these measures. Tools that are used to ensure contract performance in these cases include:

- Corrective action plans with a timeline for reaching contract compliance
- Restatement of the SDP commitment using SDP Plan Form with specific partners named and which will result in at least equal or better value than the original SDP commitment.

The SDO provides assistance to non-compliant vendors by identifying SDP partners, and vendors may reach out to the SDP Help Desk at sdp@mass.gov.

Corrective Action Plans: An effective SDP corrective action plan must include the following components:

- A clear measurement of the gap in contract compliance: the contractor's SDP commitment, total contract spending over the period of non-compliance, total SDP spending reported by the contractor, and the difference between the total SDP spending reported and the total SDP spending expected.
- Specific steps the contractor commits to taking to come into compliance with deadlines for each step. Steps may include, but may not be limited to:
 - Identification of specific individuals within the company responsible for the implementation of the corrective action plan
 - Meeting with the agency/SDO to improve understanding of the SDP
 - Analysis of current suppliers to identify firms that currently are certified by the SDO or SDO-recognized third-party certifying organizations
 - Outreach to current suppliers to identify those that may be eligible for supplier diversity

- certification and follow-up to monitor their certification status⁹ prior to end of the current fiscal year
 - Analysis of current and upcoming contract-related projects/engagements to identify potential new diverse subcontractors
 - Analysis of current and upcoming business needs to identify potential new diverse ancillary partners
- Specific deadlines/milestones for completing the steps above.
- The expected date of resolving the documented contract non-compliance.

Documentation: The SST should maintain documentation of all communications with contractors to support any action taken to resolve non-compliance with the SDP Plan.

Compliance and Quality Assurance Reviews of SDP Plans and Reports

The SDO's Compliance and Quality Assurance Unit shall review and enforce department compliance with SDO programs, policies, and benchmarks and take appropriate compliance, enforcement, and corrective action measures. The unit shall provide assistance to departments in addressing vendor compliance issues on departmental contracts.

Procurements and Contracts Exempt from this Policy

Procurement Exceptions: The following procurement exceptions contemplated by 801 CMR 21.00 are not required, but are encouraged to include applicable SDP and/or SBPP provisions to the extent possible:

- Legislative exemptions or legal restrictions due to a general or special law or other existing legal obligation
- Emergency situations that require the immediate acquisition of a commodity or service to eliminate the emergency
- Incidental purchases

Non-discretionary Expenditures and Other Special Situations: Additionally, unless directed otherwise, departments are not required but are encouraged to include applicable SDP and/or SBPP provisions to the extent possible in procurements or solicitations related to:

- Pensions and insurance
- Awards, grants, and subsidies
- Entitlement programs, loans, and special payments
- Transactions outside of the Massachusetts Management Accounting and Reporting System (MMARS)
- Revenue-generating contracts
- Products and services acquired from public entities (municipalities, public schools, etc.)
- Products and services acquired through an Interagency Service Agreement (ISA)

This policy was designed to allow prime contractors the freedom to meet their SDP commitments by pursuing business relationships with SDP partners that meet the goods and services needs of their company. While this flexibility should eliminate the need for other exemptions from the SDP plan requirement, exemptions may be considered by the SDO on a case-by-case basis.

To request an exemption from applying SDP or SBPP requirements or to suggest an alternative means of achieving program goals on a specific procurement or a contract, departments must send the request with supporting documentation to sdp@mass.gov. The SDP office will respond to all waiver requests within 10 business days.

⁹ The SDO does not guarantee all certification applicants will receive certification.

References and Related Materials

- [Learn about the Supplier Diversity Program \(SDP\)](#)
- [Learn about the Small Business Purchasing Program \(SBPP\)](#)
- [Executive Order No.599, Reaffirming Programs to Ensure Diversity, Equity, and Inclusion for Diverse and Small Massachusetts Businesses in State Procurement and Contracting](#)
- [The Conducting Best Value Procurements Handbook](#)
- [Best Value Evaluation of SDP Plan Forms: A Guide for Strategic Sourcing Teams](#)
- [Best Value Evaluation of Responses to Small Procurements: A Guide for Strategic Sourcing Teams](#)
- Supplier Diversity Program Plan Forms are located on the [SDO Forms](#) webpage

Revision History

Version Number	Date	Brief Description
1.0	06/28/2021	Initial release
2.0	09/29/2023	Comprehensive revision