

Supplier Diversity Program Guideline - 2.6.G (10/11/04)

IMPORTANT NOTICE: This document is an interim version awaiting final approval by the Department of Energy and is subject to change.

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This guideline is being revised to incorporate prime contract subcontracting plan, DOE Acquisition Letter 2004-3 requirements, and updates and to change procedures/forms.

Definitions

An **8(a) Certified Contractor** is identified by the SBA as a business which is 51 percent owned, controlled, and operated by one or more socially and economically disadvantaged individual(s). An 8(a) Contractor has met SBA certification requirements for federal agency set asides.

A **Business Development Organization (BDO)** is a business organization with whom Sandia builds relationships for economic development and sourcing identification. Examples are the Rio Grande Minority Purchasing Council, African American Economic

Development Council, Women's Economic Self Sufficiency Team, and National Association of Women Business Owners.

Central Contractor Registration (CCR) is the Small Business Administration's (SBAs) internet-based database of information on both large and small businesses. It is free to federal and state government agencies as well as prime and other Contractors seeking small business Contractors, subcontractors and/or partnership opportunities.

Chambers are those entities with whom Sandia builds relationships for economic development and sourcing identification. Examples are the Hispano Chamber of Commerce and the Albuquerque Indian Chamber of Commerce.

Controlled means exercising the power to make policy decisions.

Foreign Contractor means a Contractor or subcontractor organized or existing under the laws of a country other than the United States. In order to qualify for any small business preferences a foreign entity must be 51 percent owned by a United States citizen.

HUBZone business certified by SBA is defined as a historically underutilized business zone which is in an area located within one or more qualified census tracts, qualified non-metropolitan counties, or lands within the external boundaries of an Indian reservation and thirty-five percent of its employees live in a HUBZone.

NAICS – The North American Industry Classification System (www.census.gov/epcd/www/naicstab.htm) has replaced the United States Standard Industrial Classification (SIC) system. NAICS was developed jointly by the United States, Canada, and Mexico to provide new comparability in statistics about business activity across North America. The goal of NAICS is to provide classification of various types of statistical data by industries and to promote the general adoption of such classification as the standard classification of the federal government.

Office of Advocacy and Small Business Development assists small businesses in increasing their competencies and capabilities through networking, mentoring, technical assistance, and training. The Supplier Information and Relations Department collaborates with the above-mentioned organization to enhance small business opportunities.

Operated means actively involved in the day-to-day management of the business.

A Procurement Department Liaison (PDL) is a member of the SIR Department who is assigned and assists a particular buying department. A PDL is responsible for assisting the organization with their Supplier Source Requests and reviewing Contractor subcontracting plans. For information on the PDL assigned to your organization, contact the SIR administrative support staff.

Service-Disabled Veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 1.

Service-Disabled Veteran-Owned Small Business (SDVOSB) is a small business concern whereby not less than 51 percent is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and the management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

Set-Aside Contract is a contract designated for small businesses concerns. A set-aside may also be limited to small, HUBZone, and 8(a) business concerns.

A **Small Business (SB)** is independently owned and operated and does not exceed the sales threshold and number of employees set by the Small Business Administration (SBA) for the industry in which the business operates and is not dominant in that industry.

The **Small Business Administration (SBA)** is an agency under Congressional mandate to assist United States small businesses by:

- helping new or growing businesses meet their financial needs;
- counseling small firms with problems;
- offering special assistance to small business concerns, small business concerns owned and controlled by service-disabled veterans;
- qualified HUBZone small business concerns;
- small business concerns owned and operated by socially and economically disadvantaged individuals and small business concerns owned and controlled by women;
- helping small businesses to secure government contracts; and
- acting as a special advocate for small business with other federal agencies, with states and within the private sector.

Small Business Liaison Officer (SBLO) Manager of Supplier Information and Relations (SIR) Department is the person responsible for the success of the small business program. Issues around supplier relationships should be directed to the SBLO. The SBLO may delegate staff to perform specific for daily operations of the program.

A **Small Disadvantaged Business Certified (SDBC)** is a small business that has been certified by SBA to be at least 51 percent owned, controlled, and operated by one or more socially and economically disadvantaged individual(s). Individuals claiming social and economic disadvantage who are not members of a designated group and have demonstrated their disadvantage may also be certified by SBA as an SDBC business.

Socially and Economically Disadvantaged Individuals identified in 13 CFR Part 124 include:

- Black Americans,
- Hispanic Americans,
- Native Americans, including American Indians, Eskimos, Aleuts,
- Native Hawaiians, and
- Asian-Pacific Americans comprised of United States citizens whose origins are in Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territory of the Pacific Islands (Republic of Palau), the Northern Mariana Islands, Laos, Kampuchea (Cambodia), Taiwan, Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Republic of the Marshall Islands, or the Federated States of Micronesia.

Socioeconomic Goals are those goals negotiated annually with the Department of Energy/National Nuclear Security Administration (DOE/NNSA) which is Sandia's commitment to utilizing diverse suppliers. Goals are negotiated for total commercial dollars and percentage planned to be subcontracted to:

- Small Business
- Small Disadvantaged Veteran-Owned Business
- HUBZone Small Business
- Small Disadvantaged Business
- Service-Disabled Veteran-Owned Small Business
- Women-Owned Small Business

Veteran-Owned Small Business (VOSB) is a small business concern whereby not less than 51 percent is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and the management and daily business operations are controlled by one or more veterans.

Note: For more precise definitions of all of the above see Federal Acquisition Regulation (FAR) Subpart 19.001 or the size standards established by the Small Business Administration (SBA) <http://www.sba.gov/size/> in 13 CFR, Part 121, or call the Supplier Information and Relations Department at Sandia/NM, or the Small/Disadvantaged Business Coordinator, at Sandia/CA.

A **Women-Owned Small Business (WOSB)** is a small business concern that is at least 51 percent owned, controlled, and operated by a woman or women.

Procedures - 2.6.G.1

Supplier Information and Relations (SIR) Department - 2.6.G.1.a

In accordance with Prime Contract No. *DE-AC04-94AL85000*, Appendix E, Subcontracting Plan, the SIR Department was established to meet the requirements as stated in the above-mentioned plan. The following major goals have been established to assist SIR in meeting those requirements. The goals are to:

- Establish, implement, and communicate those activities that increase Sandia's economic impact in the business and educational community, thereby, establishing a foundation for our supplier community to advocate for Sandia as appropriate.
- Implement activities and programs to enhance knowledge and drive behaviors that demonstrate that our customers view small business as partners and that everyone takes responsibility for successful relationships.
- Develop enhanced relationships among our line organizations, Procurement, Logistics, Business Development organizations, Department of Energy/National Nuclear Security Administration (DOE/NNSA), Lockheed Martin Corporation, other Management and Operating (M&O) Contractors, and all Sandia suppliers.
- Ensure that strategic relationships meet long-term business needs.
- Be a catalyst for success to ensure that our stakeholders have confidence that Sandia can manage its business.

SIR's roles and responsibilities relative to Sandia's Supplier Diversity Program include the following:

- Understand prime contract requirements for supplier diversity such as performance goals, metrics, and outreach reporting requirements.
- Establish performance socioeconomic goals and administer Sandia's prime subcontracting plan against negotiated goals.
- Educate Sandia on the requirements of the prime contract subcontracting plan requirements.
- Track and report Sandia subcontracting activity.
- Facilitate positive relationships between the business community and Sandia.

- Review and report Sandia Contractors' subcontracting plans, metrics, and outreach reporting requirements.
- Support Procurement staff by:
 - Researching supplier capability data.
 - Gathering forecasting data regarding future procurements.
 - Identifying potential suppliers with forecasted Sandia requirements.
 - Assisting in acquisition planning.
 - Identifying sources at the request of the Sandia Contracting Representative (SCR).
- Assist with locating appropriate North American Industry Classification System (NAICS) code.
- Coordinate supplier community communications.

Sourcing Documentation - 2.6.G.1.b

When a competitive requirement above \$100K will be issued as a solicitation, the SCR is required to send Source Request Form No. SF 6432-SRF (<http://www-irn.sandia.gov/corpdata/corpforms/formhp.html>) and an electronic copy of the Statement of Work (SOW) to the SIR Source Request Coordinator for review and assignment to the appropriate PDL.

The PDL shall perform a supplier search which includes requesting viable sources from various Business Development organizations, Chambers, and Sandia Office of Advocacy and Small Business Development. Additional potential sources which meet the requirements may be added to the source list by the PDL and returned to the SCR. A copy of the Source Request Form is to be scanned into the contract file and a copy retained in the SIR Department.

Procurement organizations possessing an approved SIR prequalified source list program are not required to submit Form SF 6432-SRF for specific commodities/services. However, documentation is required in the Procurement Action Summary (PAS)/Procurement Action Documentation (PAD).

The PDL or SCR can recommend a Small Business set-aside. See Section 2.6.G.2 entitled "Small Business and 8(a) or Service-Disabled Veteran-Owned Business Set-Asides" in this guideline for determination.

If a SIR representative makes a recommendation that a small business set-aside is not appropriate for a particular procurement, SB, 8(a), SDBC, WOSB, SDVOSB, VOSB, and HUBZone businesses will be provided maximum opportunity to compete for the requirement. The sourcing request documentation shall cover this recommendation. The

SCR must address any deviations from the SIR recommendations in the Procurement Action Summary (PAS) or Procurement Action Documentation (PAD).

At the SCR's request, the PDL may assist the SCR in conducting market surveys and supplier searches, regardless of dollar amount of requirement.

Upon award of contract, SCR shall complete all shaded areas on the Source Request form, scan a copy into contract file, and forward a copy to the SIR PDL.

Order of Preference - 2.6.G.1.c

Contracts shall be awarded in the following order of priority when two or more low bids are equal in all respects;

- Small business concerns that are also labor surplus area concerns (HUBZone).
- Other small business concerns.
- Other business concerns.

If two or more bidders still remain equally eligible after application of the above process, award shall be made by a drawing by lot, limited to those bidders. The drawing shall be witnessed by at least three persons, and the contract file shall contain the names of the witnesses and the person supervising the drawing.

Oracle Contractor Database - 2.6.G.1.d

The Oracle Procurement System maintains the Active Contractors Database (ACD) which classifies businesses as:

- Large (LB),
- Small (SB),
- Small Disadvantaged Business Certified (SDBC),
- Women-Owned, (WOB),
- 8(a) certified (8(a)),
- Veteran-Owned (VO),
- Service Disabled Veteran-Owned Small Business(SDVOSB), and
- HUBZone (HUB).

Reports - 2.6.G.1.e

The SIR creates, publishes, and distributes corporate reports to the government, suppliers, Sandia, Lockheed Martin Corporation management, and other interested parties (i.e., congressional delegation). These reports include, but are not limited, to the following:

- Socio-Economic Reports,
- Purchasing Goals and Accomplishments,
- Small Business Administration Reports,
- Annual Procurement reports, and
- Community economic impact data.

Small Business, 8(a), or Service-Disabled Veteran-Owned Business Set-Asides - 2.6.G.2

In accordance with the prime contract, Sandia may utilize set-asides as a tool for meeting socio-economic goals.

Purchases may be set-aside for award small businesses, 8(a) businesses, and HUBZone businesses regardless of dollar value. If the procurement is an 8(a) or SDVOSB set-aside, the SCR must document the rationale for the source selection and justify fair market value in the PAS.

Set-Aside Matrix

Thresholds

Quick Reference of Set-Asides

<\$100K

Purchases valued up to \$100K may be set-aside on a sole source basis to small business. Code as set-aside.

>\$100K

Competitive set-aside may be used at the discretion of the SCR for any type of SB firms where there is reasonable expectation of obtaining two or more responsive offers from two or more SB firms. The award can be coded as a set-aside, unless a large business was solicited.

≤\$3 million

Competitive set-aside can be used for general construction

requirements for any type of SB firms where there is reasonable expectation of obtaining two or more responsive offers from SB firms.

≤\$3 million	Noncompetitive set-aside can be used for certified 8(a) businesses. Awards are to be justified by fair market prices.
≤\$5 million	Noncompetitive set-asides can be used for certified 8(a) firms in manufacturing NAICS codes. Awards are to be justified at fair market prices.
>\$3 million	Competitive set-asides among certified 8(a) businesses can be used.
>\$5 million	Competitive set-asides among certified 8(a) businesses in manufacturing NAICS codes can be used.

Note: SB denotes SB, WOSB, SDB, SDBC, and 8(a).

Fair market price is used by the SCR to justify the contract value for set-aside contracts. The SCR shall use cost or price analysis and consider commercial prices for similar products and services, available in-house cost estimates, data (including cost or pricing data) submitted by the SBA or the estimates, data (including cost or pricing data) submitted by the SBA or the Contractor and data obtained from any other government agency.

Note: Limitations on subcontracting guidelines for percent of contract work required to be performed by the SB, 8(a), or SDVOSB on set-asides:

- Services (except construction) at least 50 percent of the cost of the contract performance incurred for personnel.
- Supplies (other than procurement from a nonmanufacture of such supplies) at least 50 percent of the cost of manufacturing the supplies, not including the cost of the material.
- General construction at least 15 percent of the cost of the contract, not including the cost of the material, with its own employees. Construction by special trade at least 25 percent of the cost of the contract, not including the cost of the material, with its own employees.

Consideration in utilizing these set-aside guidelines will help Sandia meet its socio-economic performance goals.

Sandia may set-aside purchases at any dollar value for award to small businesses and to make purchases value up to \$100 million on a sole source basis to small businesses. If

such programs as instituted, the Contractor shall assure that awards are to be made at fair market prices.

HUBZone Set-Aside Procedures - 2.6.G.2.a

Sandia may set-aside acquisitions exceeding the simplified acquisition threshold for competition restricted to HUBZone small business concerns when the requirements of the following paragraph can be satisfied. The SCR may consider HUBZone set-asides before considering HUBZone sole source awards or SB set-asides.

To set-aside an acquisition for competition restricted to HUBZone SB concerns, the SCR must have a reasonable expectation that:

- offers will be received from two or more HUBZone SB concerns; and
- award will be made at a fair market price.

Sandia may set-aside acquisitions exceeding the micro-purchase threshold, but not exceeding the simplified acquisition threshold, for competition restricted to HUBZone SB concerns at the sole discretion of the SCR, provided the requirements of above can be satisfied.

If the SCR receives only one acceptable offer from a qualified HUBZone SB concern in response to a set-aside, the SCR should make an award to that concern. If the SCR receives no acceptable offers from HUBZone SB concerns, the HUBZone set-aside shall be withdrawn and the requirement, if still valid, set-aside for SB concerns, as appropriate.

Service-Disabled Veteran-Owned Small Business Set-Aside Procedures - 2.6.G.2.b

Sandia may set-aside acquisitions exceeding the micro-purchase threshold for competition restricted to SDVOSB small business concerns when the requirements of the paragraph below can be satisfied. The SCR shall consider SDVOSB set-asides before considering SDVOSB small business sole source awards.

To set-aside an acquisition for competition restricted to SDVOSB concerns, the SCR must have a reasonable expectation that:

- offers will be received from two or more SDVOSB concerns; and
- award will be made at a fair market price.

If only one acceptable offer is received from a SDVOSB concern in response to a set-aside, the SCR should make an award to that concern. If no acceptable offers are received from SDVOSB small business concerns, the SDVOSB set-aside shall be withdrawn and the requirement, if still valid, set-aside for small business concerns, as appropriate.

The following table illustrates the appropriate solicitation clauses used for set-asides.

Set-Asides	Standard Clauses
SB	- SC 423-SB - Notice of Small Business Set-Aside - SC 427-SN - Small Business Concern Representation
SDVOSB	- SC 430-VSA - Notice of Service-Disabled Veteran-Owned Small Business Set-Aside

Company profiles and capabilities of many SB firms may be obtained from the CCR.

Subcontracting Plan Guidelines - 2.6.G.3

A subcontracting plan will be incorporated in contracts, Ordering Agreements (OAs), and contract revisions awarded to large business concerns and universities that individually are expected to exceed \$500K (\$1 million for construction).

FAR 52.219-9 - Small Business Subcontracting Plan, Section II, (d), specifies the requirements that must be included in the Contractor's subcontracting plan. In making determinations concerning the acceptability of proposed subcontracting plans, the following actions shall be taken:

Step	Who	Action
1	SCR	Evaluates the anticipated potential for subcontracting to SB, SDBC, WOSB, HUBZone, VOSB, and SDVOSB, considering the make-or-buy policies or programs of the apparent successful Contractor, the nature of the products or services to be subcontracted, and the known availability of SB, SDBC, WOSB, HUBZone, VOSB, and SDVOSB concerns in the geographical area where the work will be performed.
2	SCR	Reviews subcontracting plan to ensure that the following six elements are addressed:

		<ul style="list-style-type: none"> • Goals • Program Administrator • Outreach Efforts • Subcontracting Plan Flowdown • Reports and Surveys • Records and Procedures
3	SCR	<p>Advises the apparent successful Contractor of:</p> <ul style="list-style-type: none"> • The availability of the sources for information on potential SB, SDBC, WOSB, HUBZone, VOSB, and SDVOSB subcontractors, and • The names of any known potential SB, SDBC, WOSB, HUBZone, VOSB, and SDVOSB subcontract sources. <p>Note: Provides information on potential sources only. Do NOT direct successful Contractor to use suppliers.</p>
4	SCR	<p>Advises the Contractor of the available sources of information which can be used and the potential SB, SDBC, WOB, HUBZone, VOSB, and SDVOSB subcontract sources if the SCR believes that the proposed goals in the subcontracting plan to not appear reasonable.</p>
5	SCR	<p>Negotiates subcontracting goals at a level which represents a good faith, aggressive, and comprehensive effort of the apparent successful Contractor to use to the maximum practicable extent SB, SDBC, WOB, HUBZone, VOSB, and SDVOSB subcontractors after appropriate consideration of their price, technical capability, and other pertinent factors. No goals will be negotiated upwards if it is apparent that higher goals will result in significant increased costs to Sandia or the government or will seriously impede acquisition objectives. Negotiations shall occur prior to award of the contract.</p>
6	SCR	<p>Appropriates revisions to agreed subcontracting percentage and dollar goals shall be negotiated if any subsequent revisions to the contract will have a major impact on the original planned volume or type of subcontracting effort.</p>
7	SCR	<p>Submits the approved plan to the PDL prior to award of the contract or revision.</p>

8	PDL	Reviews the subcontracting plan for acceptability, signs and returns to the SCR. Unacceptable subcontracting plans must be resolved by the SCR.
9	SCR	Scans the subcontracting plan into the contract file.
10	PDL	Retains copy for SIR files and semiannual reporting follow-up.

Concurrence must be obtained from the SIR PDL prior to the award of any contract or revision where the Contractor has indicated that no subcontracting opportunities exist.

Master/Commercial Subcontracting Plan - 2.6.G.3.a

The SCR may incorporate a Contractor's master or commercial subcontracting plan which has been approved by a government contracting officer.

A commercial plan is a subcontracting plan, including goals, that covers the Contractor's fiscal year, applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line), and is the preferred type of subcontracting plan for Contractors furnishing commercial items. The Contractor is required to update the commercial plan each fiscal year. Once the updated plan is approved by the cognizant contracting officer, the Contractor shall submit it to the SCR who will in turn incorporate it into the contract.

A master plan is a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved by a government contracting officer. Master plans shall be effective for a three-year period after approval by the contracting officer; however, a master plan, when incorporated in an individual plan, shall apply to that contract throughout the life of the contract.

If a master or commercial subcontracting plan is to be incorporated into the contract the SCR must:

- obtain a copy of the Contractor's approved master or commercial plan, and
- forward the approved document to the PDL for concurrence.

SF-294 Requirements – 2.6.G.4

Contractors are required to submit Standard Form 294 “Subcontracting Report for Individual Contracts” on a semiannual basis for all contracts greater than \$500K (\$1 million for construction) awarded to large businesses or universities. The SIR Department is responsible for collecting the form from the Contractor. If the SF 294 is received by the SCR, the SCR shall forward the report to the SIR organization. The SF 294 reports the Contractor’s progress in achieving the subcontracting goals set in the Small Business and Small Disadvantaged Business Subcontracting Plan that the Contractor submitted for this particular contract.

SIR will identify noncompliance issues and submit them to the SCR for resolution. If the Contractor is not meeting their subcontracting goals, the SCR must contact the Contractor and remind them of their obligation to comply with the goals they have committed to. If they are unable to comply, negotiations may be necessary to renegotiate the terms of the subcontract. SF 294s will be maintained by the SIR Department and scanned into the contract file and reported to DOE/NNSA on a semiannual basis.

Failure to Comply - 2.6.G.5

The failure of the Contractor or subcontractor to comply in good faith with the clause entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns," or an approved plan required by this provision shall be a material breach of the contract.

If such a breach of contract occurs, the SCR shall review the available facts with the Sandia Liaison Officer and Legal to determine appropriate action.

Such action may include termination of the contract pursuant to the termination for default clause, reduction in contract price, negotiation of a revised subcontracting plan to correct deficiencies, or other measures deemed appropriate. In determining the proper action, Sandia shall consider:

- The reasons attributed to the failure to comply in good faith,
- Sandia’s need for the contract deliverables,
- The impact a proposed action may have on existing small and disadvantaged subcontractors, and
- If necessary, negotiate an equitable adjustment or reduction in fee/profit.

SCR shall incorporate any revisions to the subcontracting plan, submit revisions to SIR, and document all actions.

References - 2.6.G.6

- FAR 52.219-8 - Small Business Subcontracting Plan
- Appendix E, Subcontracting Plan (<http://www-irn.sandia.gov/corpdata/doe/prime/contract.html>)
- SC 423-SB - Notice of Small Business Set-Aside
- SC 425-SBS - Small Business Subcontracting Plan
- SC 426-KSC - NAICS Code and Small/Small Disadvantaged/Women-Owned Businesses Size Standard
- SC 427-SN - Small Business Concern Representation
- SC 429-EA - Notice of Set-Aside for Eligible SBA Certified 8(a) Business Concerns
- SC 430-VSA – Notice of Service-Disabled Veteran-Owned Small Business Set Aside

Send feedback on ideas and information on this page to the Process Expert, Adolph Bachicha.



[Adolph Bachicha](#)



[Karen Archibeque](#)

