



August 18, 2005

SUPPLIER DIVERSITY PROGRAM

| | |
|---|----|
| Introduction | 1 |
| Background | 1 |
| Policy | 2 |
| Smithsonian Procurement Preference Goals | 3 |
| Program Administration and Oversight | 4 |
| Smithsonian Unit Responsibilities | 7 |
| Set-Aside Determination | 8 |
| Subcontracting with Small and Disadvantaged Businesses | 9 |
| Outreach | 10 |
| Definitions | 11 |

Introduction

This directive outlines the policies for small and small disadvantaged business (SDB) utilization in Smithsonian procurement and contracting. The Smithsonian Supplier Diversity Program (SDP) focuses on including a diversity of sources in the Smithsonian's open market procurements. Small, socially and economically disadvantaged, minority-owned, women-owned, Historically Underutilized Business zone (HUB-zone), and service-disabled, veteran-owned small businesses (SDVOSBs) shall be provided the maximum opportunity practicable, within the context of the Institution's contracting needs, to compete for Smithsonian procurements and contracts. The success of the Smithsonian SDP is accomplished by respective offices working together to achieve the procurement goals established for the Institution.

Background

Public Law (P.L.) 85-836, The Small Business Act of 1958 (the Act), amended the original Small Business Act of 1953 by creating the Small Business Administration (SBA) as an independent agency within

Background
(continued)

the Executive Branch to carry out the provisions of the Act. The Act states that the federal Government should, insofar as is possible, aid, counsel, assist, and protect the interests of small business concerns in order to preserve free competitive enterprise, ensure that a fair portion of the total purchases and contracts for supplies and services for the Government is placed with small businesses, and maintain and strengthen the overall economy of the nation.

P.L. 95-507, Amendments to the Small Business Act of 1958, enacted in 1978, made major revisions to the Act. P.L. 95-507 and other statutes and supporting Executive Orders require that federal agencies establish small business goals for procurement and contracting, and explain to Congress when goals are not met. Agencies must establish offices to promote increased use of small businesses and SDB, and be advocates for such businesses that are interested in doing business with the Government. P.L. 95-507 redefined Minority Firms as Socially and Economically Disadvantaged Small Business Concerns and included them in the definition of SDBs, made it mandatory to include SDBs in subcontracting efforts, required that all awards under \$100,000 be reserved for small businesses, and established the 8(a) Program.

Although the Smithsonian Institution is not an “agency” as defined in the Small Business Act, 15 *United States Code* (U.S.C.) Section 632(b), and the Administrative Procedures Act, 5 U.S.C. Section 551(1), and therefore is not subject to the statutes and Executive Orders governing small business and SDB use, it seeks to abide by the spirit and intent of these statutes and Executive Orders on all projects where federally appropriated dollars are spent, and in all of its procurement actions, to the greatest extent practicable.

Policy

It is Smithsonian Institution policy that, to the maximum extent practicable, and within the context of the Institution’s contracting needs, small businesses and SDBs should be provided opportunities to compete for and be awarded Smithsonian procurements and

Policy (continued)

contracts for which they qualify and are able to meet performance requirements.

Procurement actions for the following products or services are not subject to the Institution's policy for small business and SDB utilization:

- Museum collection objects
- Foreign products
- Specialized requirements (e.g., lecturers and performing artists who have unique capabilities), where competitive procedures are not feasible
- Items available from Government or Smithsonian priority sources
- Emergency purchases

All employees who are involved in the procurement and contracting activities of the Institution must adhere to the SDP requirements cited herein, and to any supplemental guidance that the SDP Manager and/or Director of the Office of Contracting (OCon) may issue to help achieve the small business and SDB utilization goals established for their organizational units, and the Institution overall.

**Smithsonian
Procurement
Preference Goals**

The Director, OCon, and the SDP Manager establish annual small business and SDB utilization goals for the Smithsonian. The Smithsonian goals are established considering guidance provided by the SBA, the SBA nationwide small business and SDB utilization goals, and annual goals established by individual SI units.

The established goals reflect a reasonable percentage of the number and dollar amount of federal procurements awarded by the Smithsonian in previous years. These targets are also based on the established goals for a percentage of the number and dollar amount of subcontracts awarded by Smithsonian prime contractors to small businesses and SDBs in previous years.

The SDP Manager obtains SBA review of the Smithsonian-proposed goals on a biennial basis. When

**Smithsonian
Procurement
Preference Goals**
(continued)

the SBA recommends changes to the Smithsonian-proposed goals, the SDP Manager confers with the Director, OCon, prior to entering discussions with the SBA to adjust the Smithsonian-proposed procurement goals.

Information regarding the Institution's current goals for small business and SDB utilization is published separately by the Office of Equal Employment and Minority Affairs (OEEMA). This information is updated before the beginning of each fiscal year in which the revised Smithsonian goals are to be effective.

In addition, the SDP Manager periodically reviews the Institution's progress toward attaining the established goals. The SDP Manager, with OCon staff assistance, compiles reports on the extent to which small businesses and SDBs are represented in Smithsonian procurement and contract awards during each fiscal year. These reports look at progress in terms of the number of procurement actions taken and the total value of awards made by the Smithsonian units to small businesses and SDBs, and by the number and dollar value of subcontracts that Smithsonian prime contractors award small businesses and SDBs during each fiscal year. Following the SDP Manager's review, these reports are then provided to the SBA in accordance with the Institution's external report review and clearance procedures.

**Program
Administration
and Oversight**

Office of Equal Employment and Minority Affairs

The Director of OEEMA is responsible for developing, implementing, monitoring, and managing small business and SDB use by the Smithsonian through the SDP, using Public Law 95-507 and other relevant statutes and Executive Orders as guidance. SDP oversight is assigned to the OEEMA staff member designated as the Smithsonian SDP Manager.

**Program
Administration
and Oversight**
(continued)

Smithsonian SDP Manager

The SDP Manager helps the Director, OCon, to ensure that all Smithsonian employees involved in procurement and contracting activities are aware of the small business and SDB utilization policies and procedures. The SDP Manager is also responsible for ensuring that small businesses and SDBs are used to the maximum extent practicable and within the context of the Institution's procurement and contracting needs.

The SDP Manager reviews the copies of the consolidated Smithsonian annual Advance Procurement Plan (APP) that is established by OCon staff. The SDP Manager contacts unit SDP Liaisons in advance of planned procurement dates to recommend SDB use and confirm the appropriateness of set-aside determinations.

The SDP Manager develops the annual *Forecast of Procurement Opportunities*, which is used to notify small businesses of Smithsonian requirements and unit Directors of small business capabilities.

In addition, the SDP Manager coordinates with OCon staff to provide orientation and continuing education sessions on small business and SDB utilization and SDP requirements. The target audiences are the procurement and contracting delegates and SDP Liaisons at Smithsonian museums, research centers, and offices (units). However, these sessions are open to all Smithsonian employees so that they may be kept informed of the Institution's small business and SDB utilization policies and procedures.

The SDP Manager also has the important responsibility of advocating small business participation in Smithsonian procurement and contracting actions. In carrying out this task, the SDP Manager interacts with potential vendors and representatives from outside organizations and agencies, and promotes the Smithsonian as an Institution that is fully committed to using small businesses and SDBs in its procurement actions.

**Program
Administration
and Oversight**
(continued)

Office of Contracting

The Director, OCon, is responsible for ensuring that policies and procedures are established and implemented Institution-wide to encourage participation by small businesses and SDBs in Smithsonian procurement and contracting actions to the maximum extent practicable.

Activities to keep Smithsonian procurement and contracting delegates and technical personnel informed of the small business and SDB utilization policies and procedures are coordinated by the Director, OCon, with the SDP Manager.

A consolidated APP is compiled by OCon staff and a copy is provided to the SDP Manager by the Director, OCon, before the start of each fiscal year. The Director, OCon, routinely affirms that appropriate action is being taken during the acquisition planning, required solicitation, and awards processing to ensure that the use of SDBs occurs to the maximum extent practicable.

Office of the Comptroller

The Office of the Comptroller (OC) captures accurate information to distinguish SDBs from other businesses in the vendor file of the operating Smithsonian accounting system, and maintains the vendor data to produce external and internal reports on small business and SDB utilization.

**Smithsonian Unit
Responsibilities**

**Directors of Smithsonian Museums, Research
Centers, and Offices (Units)**

The Directors of Smithsonian museums, research centers, and offices (units) are responsible for ensuring that their technical and professional staffs take all reasonable action to increase participation by small businesses and SDBs in procurements originating at their units.

Each Smithsonian unit Director must designate at least one unit employee as the unit SDP Liaison. In addition, consistent with the interests of the Smithsonian, unit Directors and members of their staffs with delegated procurement authority shall:

- Identify qualified small businesses and SDBs by all appropriate methods, including requesting assistance from the SDP Manager and/or OCon staff, particularly when only a limited number of SDBs are on the bidder's mailing list
- Consult the SDP Small Business Database on PRISM, which identifies SDBs with the capabilities to provide quality goods and services that Smithsonian units require at fair and reasonable prices. Unit Directors and staff may also contact the SDP Manager for assistance with additional databases, including the Department of Defense Central Contractor Registration system and those of other trade associations
- Compile and submit annual APPs to OCon, before the beginning of each fiscal year, in the formats and by the due dates that the OCon sets for the APPs
- Rotate procurement sources on a yearly basis, when practical, to promote equal access to available Smithsonian business by multiple SDBs
- Consider including at least two categories of SDBs in each solicitation
- Examine each major contracting requirement during and subsequent to the planning stage (i.e., those exceeding \$500,000 for services and supplies, or \$1,000,000 for construction) to identify opportunities for subcontracting with SDBs.

**Smithsonian Unit
Responsibilities**
(continued)

Procurement Delegates

Procurement and contracting officer delegates are responsible for advising staff at their units when small businesses and SDBs are available to provide requested items or services. Delegates actively pursue small businesses and SDBs when procurements and contracts involve spending federal funds and, when applicable, Smithsonian Institution trust funds.

Supplier Diversity Program Liaisons

SDP Liaisons are the points of contact for OEEMA and OCon regarding the use of small business and SDB by unit procurement delegates. SDP Liaisons review the SDB capability statements that are forwarded to them by the SDP Manager, and periodically review and report on the extent of SDB utilization by unit procurement delegates.

The SDP Liaisons also coordinate meetings between Smithsonian technical and professional staff and firms seeking to do business with the Smithsonian, to help the Institution contract with as many SDBs as possible.

**Set-Aside
Determination**

In order to ensure that small businesses and SDBs have the opportunity to compete for and be awarded Smithsonian procurements and contracts to the maximum extent practicable, Smithsonian procurement actions valued between \$2,500 and \$100,000 are considered to be possible small business or Section 8(a) set-aside procurements.

**Set-Aside
Determination**
(continued)

In accordance with existing policy, procurement delegates, unit Directors, the SDP Manager, and the Director, OCon, are responsible for ensuring compliance with the set-aside requirements in the following manner:

- Procurement delegates must consider the capability and capacity of potential SDB contractors with regard to:
 - Type of product or service needed
 - Number of orders expected
 - Quantities required
- Unit Directors must simultaneously notify the Director, OCon, and SDP Manager in writing about decisions *not* to set aside any procurement action as instructed by the Director, OCon
- The SDP Manager will participate in discussions regarding set-aside determinations, and work with the Director, OCon, to review each unit Director's rationale not to set aside any procurement action, as well as to reach a consensus on the procurement method to be used

The Director, OCon, will review each unit Director's rationale not to set aside any procurement action, and reach a consensus with the SDP Manager on the procurement method to be used.

In addition, the Director, OCon, determines when procurements in excess of \$100,000 should be set aside for small business or Section 8(a) firms.

**Subcontracting
with Small and
Disadvantaged
Businesses**

Prime contractors must describe the efforts they will take to ensure that SDBs have an equitable opportunity to compete for available subcontracts. Therefore, as a condition of contract award, the Director, OCon, ensures that contracting officers obtain subcontracting plans for each major contracting requirement that exceeds \$500,000 for services and supplies, or \$1,000,000 for construction. The plans shall identify opportunities for subcontracting with SDBs, and the percentage of dollars to be subcontracted in each SDB category.

**Subcontracting
with Small and
Disadvantaged
Businesses**
(continued)

The SDP Manager examines each subcontract plan prior to contract award, and provides comments to the contracting officer within five days of receiving assurance that the prime contractor will make the maximum effort feasible to contribute to the Smithsonian's subcontracting goals.

Outreach

As the Smithsonian's advocate for small, small minority-, and women-owned businesses, HUB-zone businesses, and SDVOSBs, the SDP Manager ensures that small businesses and SDBs are provided the opportunity to compete for Smithsonian procurements and contracts to the maximum extent practicable. The SDP Manager accomplishes this by conducting outreach programs that inform the small and minority business community about the contracting opportunities available within the Smithsonian, either as prime contractors or subcontractors.

Outreach activities include identifying and registering small, small minority-, and women-owned businesses that can provide quality goods and services to the Smithsonian. This includes developing, publishing, and distributing information about the Smithsonian SDP, and providing appropriate registration materials for use by vendors and contractors.

In particular, small businesses and SDBs are identified at workshops, seminars, and/or meetings that the SDP Manager and/or SDP Liaisons conduct to orient these firms on how to do business with the Smithsonian. The SDP Manager provides these businesses with advice, direction, and opportunities to network with OCon managers and staff, as well as with the Smithsonian unit procurement delegates.

Outreach
(continued)

The SDP Manager also participates in meetings, conventions, conferences, trade fairs, seminars, and other forums to promote the Smithsonian as an Institution that is fully committed to using small businesses and SDBs in its procurement actions.

The SDP Manager develops and distributes informational materials to potential small businesses and SDB contractors to help them understand the Smithsonian procurement process and SDP. Publications available include a guidebook entitled *How to Do Business with the Smithsonian* and the annual *Forecast of Procurement Opportunities*.

Definitions

Set-Aside—Acquisitions for which participation is reserved exclusively for a certain category of business. An acquisition may be set aside for small businesses, HUB-zone businesses, SDVOSBs, or for 8(a)-certified firms. For purposes of set-aside acquisitions, offers received from concerns that do not qualify in one of the above categories shall be rejected as nonresponsive.

Small Business—An independently owned and operated concern that is not dominant in its field and that meets the small business size criteria established by the SBA in 48 Code of Federal Regulations 19.001. The definition of a small business varies by industry, based on either dollar volume (i.e., the average annual receipts for the preceding three fiscal years) or the number of people it employs. In many cases, if a vendor's average annual revenues over a three-year period do not exceed \$5 million, it would qualify as a small business.

SDB—A small business that is at least 51 percent owned by one or more socially and economically disadvantaged individual(s); or, in the case of a publicly owned business, an enterprise in which at least 51 percent of the stock is unconditionally owned by one or more socially and economically disadvantaged individual(s), and whose management and daily business operations are controlled by one or more of these individuals.

Definitions
(continued)

Socially Disadvantaged Individuals—Individuals who the SBA has determined have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a certain group, without regard to their individual qualities. These groups include African Americans, Native Americans (e.g., American Indians, Eskimos, Aleuts, and Native Hawaiians), Asian Pacific Americans, Subcontinent Asian Americans, or any other group of individuals found to be disadvantaged by the SBA.

Economically Disadvantaged Individuals—Socially disadvantaged individuals with an impaired ability to compete in the free enterprise system because of diminished capital and credit opportunities compared to others in the same or similar line of business.

Section 8(a) Set-Aside—Refers to the part of the Small Business Act that authorizes the SBA to enter into contracts with federal procuring agencies directly (as the prime contractor) for the supply of goods and services, and then to subcontract the actual performance of the work to businesses that are certified to participate in the 8(a) program. The SBA uses this authority to assist small businesses that are owned and controlled by socially and economically disadvantaged individuals.

Section 8(a) Vendor—Refers to small businesses owned and controlled by socially and economically disadvantaged individuals, which are certified by the SBA to participate in the Section 8(a) program.

Woman-Owned Business—A small business that is at least 51 percent owned, controlled, and operated by a woman or women. “Control” means that the individual(s) can make policy decisions. “Operate” means being actively involved in the day-to-day management of the business.

Definitions
(continued)

HUB Zone—An area that is located within one or more qualified census tracts, qualified non-metropolitan counties, or lands within the external boundaries of an Indian reservation. For the purposes of this policy, *HUB-zone small businesses* are small businesses that appear on the List of Qualified HUB Zone Small Business Concerns maintained by the SBA.

Service-Disabled Veteran—A veteran, as defined in 38 U.S.C. 101(2), who has a disability that is service-connected as defined in 38 U.S.C. 101(16). For the purposes of this policy, an *SDVOSB* is a small business that is: not less than 51 percent owned by one or more service-disabled veteran(s); or, in the case of a publicly owned business, an enterprise in which 51 percent or more of the stock is owned by one or more service-disabled veteran(s); and in which the management and daily business operations are controlled by one or more service-disabled veteran(s); or, in the case of a veteran with a permanent and severe disability, a concern in which the management and daily business operations are controlled by the spouse or permanent caregiver of such veteran.

CANCELLATION:
INQUIRIES:
RETENTION:

SD 216, November 1, 1994
Office of Equal Employment and Minority Affairs
Indefinite. Subject to review for currency 24 months from date of issue