SUPPLIER DIVERSITY PROGRAM

Issue Date: November 1, 2005
Refresh Date: June 1, 2011

This document sets forth the policy and guidance pertaining to the Supplier Diversity Program (SDP) for incidental purchases, small procurements and large procurements. The requirement of a Supplier Diversity Program (SDP) Plan for large procurements is covered in depth.

Supplier Diversity Program for Incidental Purchases

An incidental purchase is defined as a one-time, non-recurring, unanticipated need for commodities and/or services with a total dollar value of up to $5,000. As authorized under M.G.L. c. 7, s. 22, regulation 801 CMR 21.05(1) recognizes the fact that conducting a competitive procurement for certain types of purchases is neither cost-effective nor an efficient use of administrative and staff resources. Therefore, to maximize available resources, encourage best value in purchasing practices and support timeliness, some purchases may be considered incidental in nature. Pursuant to our Executive Order, agencies should always consider using Minority- and Women-Owned Business Enterprises (M/WBE) certified by the Supplier Diversity Office (SDO), formerly known as SOMWBA) for incidental purchases. A listing of SDO certified businesses is located at: [http://www.somwba.state.ma.us/BusinessDirectory/BusinessDirectory.aspx](http://www.somwba.state.ma.us/BusinessDirectory/BusinessDirectory.aspx). These purchases would assist the agency in reaching their annual Supplier Diversity Program benchmarks.

Supplier Diversity Program Requirement for Small Procurements

Consistent with the new procurement thresholds established above, Executive Departments must award contracts for Small Procurements (now set at $5,000 - $150,000) to Small Business Purchasing Program (SBPP) participating small business bidders (1) if a response is received from an eligible small business and (2) if their response meets the Department’s specifications/requirements. While all businesses interested in bidding on these 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 specifications/requirements. An award may only be made to a non-SBPP eligible bidder if there are no responses received from a registered eligible small business or if responses received from a registered eligible small business do not meet the requirements of the Small Procurement.

These steps are recommended:

- When evaluating bidder’s responses, departments should consider the bidder’s program participation (for example SDO Certified M/WBE, SBPP participant). Considering the SDO/SBPP program participation of the bidder contributes to the Commonwealth’s goals/benchmarks for increased spending with these types of businesses.

- Include the department’s SDP Officer in the selection of the bidders and the bidding process.


- Include the Supplier Diversity Program (SDP) Plan Form (described in this document) in the RFR. Although this form is not required for small procurements, it can be a productive tool to inform bidders about the Commonwealth’s commitment to the Supplier Diversity Program.
Supplier Diversity Program Requirement for Large Procurements

A Supplier Diversity Program (SDP) Plan is required for large procurements. No contract will be awarded to a bidder without a strong Supplier Diversity Program Plan containing measurable M/WBE commitments, barring any documented extenuating circumstances. All Bidders, regardless of their certification status, are required to submit a completed SDP Plan Form as part of their response for evaluation. Although strongly encouraged for small procurements the submission of an SDP Plan is mandated only for large procurements $150,000 and over. To assist and encourage bidders’ participation in the Supplier Diversity Program (SDP), the plan must be evaluated at 10% or more of the total evaluation. Agencies must select at least one of the first three components for their SDP Plan that includes: subcontracting, ancillary services and growth and development. Agencies have the flexibility to select any other component for inclusion in the required Agencies have the discretion to require at least two or more of the SDP components listed above in order for a bidder to be considered to receive all available SDP evaluation points.

Departments may award additional points (5% or more) to SDO certified bidders, provided it has concluded, through documented research, that there is an under-utilization of and discrimination against M/WBEs in the procurement area, as evidenced by a disparity study, and that the department has crafted a narrowly tailored plan aimed at correcting any detected disparity. Reference materials that could be incorporated in the research include department historical use of M/WBEs in the commodity or service being procured, utilization studies, availability analysis, public hearings and other anecdotal evidence that documents a history of under-utilization of and discrimination against M/WBEs.

The following sections contain Supplier Diversity Program (SDP) Plan guidance, including planning, exemptions, plan components, evaluation, negotiations, implementation and monitoring. They also include guidance for setting benchmarks, a sample plan and evaluation information.

Requirements by procurement size overview

<table>
<thead>
<tr>
<th></th>
<th>Small Procurement ($5,000 to $150,000)</th>
<th>Large Procurement ($150,000 or more)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Distribution</td>
<td>Exclusively distributed via posting on Comm-PASS</td>
<td></td>
</tr>
<tr>
<td>Notification</td>
<td>While notification can be made to all businesses (small and large) that subscribe to a specific Comm-PASS category, the Department should give notice of its intent to award a contract to an SBPP-eligible bidder.</td>
<td>No additional requirements beyond posting on Comm-PASS.</td>
</tr>
<tr>
<td>Supplier Diversity Plan</td>
<td>Encouraged</td>
<td>Required</td>
</tr>
<tr>
<td>Written Response</td>
<td>Unsealed: Department may accept email, fax, postal delivery, personal delivery or online via Comm-PASS.</td>
<td>Sealed: Must accept either by postal and hand delivery OR online via Comm-PASS.</td>
</tr>
<tr>
<td>Evaluation</td>
<td>Evaluate all submissions using best value criteria. However, if no SBPP bidder bids or there are none that meet the Department’s requirements, then may award to non-SBPP bidder.</td>
<td>Evaluate all submissions using best value criteria.</td>
</tr>
</tbody>
</table>
Planning for the Supplier Diversity Program Plan in a Procurement

Agencies are directed to implement a narrowly tailored SDP. The following steps are important considerations when developing SDP language in an RFR:

- Involve SDP Coordinators or their designees as PMT participants or advisors.
- Research the SDO certified vendor pool availability, industry capacity and climate.
- Determine an appropriate and achievable SDP approach.
- Require a formal Supplier Diversity Program Plan from all bidders (for large procurements).
- Identify compliance and reporting methodologies and incorporate language into RFR.
- Determine how the SDP Plan will be evaluated. (at least 10% of the total available evaluation points must be for the SDP Plan)
- Include additional weight of 5% or more for SDO certified businesses if an agency has determined through documented research that a disparity exists and that additional weight would correct this disparity.
- Negotiate the SDP Plan with the selected bidders before contract signing. If an apparent successful bidder received a low score on their SDP evaluation, this is good evidence the bidders proposal could then be improved through negotiation of a better SDP plan.

Note: A copy of EO524 can be found at [www.mass.govExecutive Order No. 524](http://www.mass.govExecutive Order No. 524). In addition, a directory of SDO certified firms is available via the Internet at [www.mass.gov/sdo](http://www.mass.gov/sdo). A Minority Business Enterprise (MBE) or a Woman Business Enterprise (WBE) is defined as a business that has been certified as such by the State Office of Minority and Women Business Assistance (SDO).

All certified businesses that are included in the bidder’s SDP proposal are required to submit an up to date copy of their certification letter. For further information on SDO certification, contact the Supplier Diversity Office at (617) 502-8831 or via the Internet at [www.mass.gov/sdo](http://www.mass.gov/sdo). Other resources are available to M/WBE firms that may qualify for SDO certification at [www.mass.gov/sdp](http://www.mass.gov/sdp).

Guidelines for SDP Plan Exemptions

*RFR Exemptions:* Although submission of an SDP Plan is required for all procurements $150,000 and over, OSD recognizes that there may be unique circumstances whereby a PMT or SDP Coordinator may need to exercise some discretion in implementing this requirement. Examples of this might include procurements that result in the establishment of “qualified lists” of contractors, or in those cases where a significant number of small or individually owned and operated businesses are expected to respond to a solicitation. In these cases the PMT may determine that requiring a prospective commitment to a percentage or fixed dollar amount through subcontracting or ancillary arrangements at the onset of the contract might discourage bidders from responding. OSD does not expect that this will happen often, but where the PMT or SDP Coordinator believes this to be the case, it may exercise some discretion in SDP Plan implementation and may seek a waiver from the SDP office.

*Bidder Exemption:* The PMT or SDP Coordinator may request a waiver in writing to the SDP office in those cases where a bidder can clearly document that requiring submission of an SDP Plan would present a hardship and would impede their participation in any contracting opportunity.

The SDP office will respond to all waiver requests within 10 working days. If an SDP waiver is approved and a contract signed with the bidder, all parties, including the contractor(s) identified in the waiver, the SDP coordinator and the sourcing lead must agree to work toward implementing a contractor specific SDP Plan during the life of the contract. The SDP director or designee may follow up periodically with agencies that have received waivers for an update and to assess the progress in implementing the plan.
Components of a Supplier Diversity Program Plan (Including Options)

While agencies have flexibility in determining what to request and require in a Supplier Diversity Program Plan, it is the agency’s responsibility to develop an approach that will result in each agency meeting its annual SDP benchmarks. The submission of an SDP Plan is a requirement of the procurement and no contract will be awarded to a bidder without a strong plan containing measurable M/WBE commitments, barring any documented extenuating circumstances. All bidders, regardless of their certification status, are required to submit a completed SDP Plan Form. When drafting the SDP Plan, agencies should determine, based on the scope of the contract and “best value” practices, the components of the SDP Plan required in a bidder’s response. Agencies should keep in mind that building M/WBE capacity within all industries will allow for a larger pool of qualified bidders in the future.

The SDP RFR methodology used here is a guideline meant to address items in an SDP Plan. It should be adapted to fit the specific needs of each RFR and contract. Higher evaluation points should clearly be awarded to SDP Plans that show significant expenditure commitments, more initiatives, use of certified vendors in the primary industry (defined as the industry directly related to the specified contract), subcontracting expenditure commitments and partnerships for the purpose of contracting with the Commonwealth of Massachusetts.

Agencies must select at least one of the first three components for their SDP Plan that includes: subcontracting, growth and development and ancillary uses. Agencies have the flexibility to select any other component for inclusion in the required SDP Plan including past performance, or other additional creative initiatives. Agencies have the discretion to require at least two or more of the SDP components listed above in order for a bidder to be considered to receive all available SDP evaluation points. All certified businesses that are included in the bidder’s SDP proposal are required to submit an up to date copy of their certification letter.

1.) Subcontracting: Bidders may be asked to include expenditure (benchmark) commitments and copies of subcontracting agreements (see the SDP Plan Form), Memorandums of Understanding or otherwise binding commitments between the bidder and certified M/WBE firms.

2.) Ancillary Uses of Certified M/WBE Firm(s): Bidders may be asked to include expenditure commitments for use of certified M/WBE firm(s) with or without the use of written commitments between the bidder and M/WBE firm(s). A description of the ancillary uses of certified M/WBEs, if any, must be in the SDP Plan Form.

3.) Growth and Development: Bidders may be asked to submit a plan with expenditure commitments for education, training, mentoring, resource sharing, joint activities, and sponsorship of a SDO certified companies. Other creative initiatives should be encouraged under this option.

Negotiations of the SDP Plan Before Contract Signing

Prior to signing a contract, agencies may negotiate a benchmark or target for spending with SDO certified M/WBEs for the duration of the contract, but only to increase what was committed in the original response.

- This benchmark should be based on a reasonable and verifiable methodology within the context of their projected revenues (if available) for the new contract, the bidder’s past history with M/WBE firms (if applicable), actual availability of certified M/WBEs, geographic location of the project, scope of contractual work and/or other relevant factors.

- This benchmark is a commitment by the bidder. This negotiation will not result in an increase in the evaluation scores for bidders. It is in the best interest of bidders to propose a comprehensive SDP Plan with their original proposal since SDP Plan evaluation scores will be based on the original proposals with possible clarifications and BAFOs (Best and Final Offer), if used.

- For bidders who have previously done business with SDO certified M/WBEs, negotiations will include consideration of the bidder’s expenditures with M/WBEs for the past two years and projected increases with available SDO certified M/WBEs for the new contract.
The SDP Plan Implementation

Agencies need to develop and include in the SDP section of the RFR their own deliverables for SDP Plan implementation including the requirement that Contractors submit reports which track subcontractor commitments and/or other related reporting mandate. The overall goal is the successful partnering between private businesses, certified vendors and the Commonwealth of Massachusetts to participate in the Supplier Diversity Program.

- The PMT, SDP Coordinator or sourcing lead will set timelines for progress reviews for the purpose of compliance and tracking of the contractor’s benchmark. Reviews should be conducted either quarterly or semi-annually as determined by the PMT, SDP Coordinator or sourcing lead. The importance for maintaining such scheduled reviews is to proactively address any issues or difficulties in a timely manner during the contract. This would allow the opportunity to set a strategic plan for M/WBE use with the contractor prior to the annual review to ensure a positive outcome of benchmark evaluations. All progress review documentation must be included in the department's procurement file.

- Contractors may be required to show gross revenues on the contract, expenditures with M/WBE firms, copies of checks to M/WBE subcontractors, current worker’s compensation contributions, current unemployment insurance documentation and other information to verify progress in meeting the benchmarks. In those cases where SDP Plan commitments were proposed in a bidder’s response based on expected Commonwealth revenues, and the level of Commonwealth spending is less than projected, adjustments will be considered accordingly during the contract review period. Bidders should be advised of this possibility in the RFR so as not to discourage their interest and participation in Commonwealth solicitations. Contractors should report any difficulties in meeting SDP Plan commitments to the sourcing lead, PMT or SDP Coordinator as soon as they occur.

- Benchmarks will be evaluated every year on the contract anniversary date or at the time of contract renewal.

- Compliance with the SDP Plan is a contractually required, material condition of the contract.

Guidelines for Monitoring and Enforcing Compliance of the SDP Plan

The Executive Office for Administration and Finance (ANF) and the Operational Services Division (OSD) jointly issue the SDP portion of the RFR for use by agencies. It is the expectation that all parties act in good faith in the execution of this SDP policy. The prime contractor should immediately communicate any difficulties relative to compliance with SDP requirements to the sourcing lead, PMT or SDP Coordinator. Once the sourcing lead, PMT or SDP Coordinator has had an opportunity to make an assessment of the circumstances and issues involved, appropriate measures will be taken to address any concerns or issues of non-compliance for all parties involved. A contractor may be considered out of compliance with the SDP Plan under certain conditions including, but not limited to, the following:

- The timeline of the benchmark is not met;
- The SDP form(s), verification(s) of certification or verification of expenditures with M/WBEs are materially incomplete by the due date or are otherwise not submitted in accordance with the contract requirements; and/or
- There is any change in or substitution to identified M/WBEs without prior notification to and approval of the sourcing lead or SDP Coordinator.

If the contractor or subcontractor is not in compliance with the terms agreed to in the SDP Plan, the sourcing lead or SDP Coordinator should work closely with the contractor to resolve any outstanding issues. This may involve informal discussions with the contractor about the specific SDP related problem and include a meeting with the contractor to discuss the issue. The contractor shall provide information as is necessary in the judgment of the sourcing lead, PMT or SDP Coordinator to ascertain its compliance with the terms agreed to in the SDP Plan.
If no resolution occurs and the problem continues, more formal steps should be taken, including the following:

1. Send written notice to the contractor from the sourcing lead, PMT or SDP Coordinator describing the problem, proposed solution and response time required. Send a copy of the notice to the PTL and OSD, if applicable.
2. Conduct follow-up meetings with the contractor.
3. Initiate formal corrective action plans with written notice from the procuring agency or OSD, as appropriate, if no resolution has occurred at this point.
4. Review invoices upon receipt for the purpose of determining whether to reject said invoices. Any rejected invoices will be returned with a written explanation for its rejection. This may occur at any time during the period of non-compliance with the SDP Plan (depending upon agency-established internal control procedures, the sourcing lead, PMT or SDP Coordinator and in conjunction with the responsible accounts payable person). Upon notice to the contractor, an agency may suspend a contract until a contractor has resolved the SDP non-compliance. An agency may also impose a penalty fee, upon notice, if it has statutory authority and has specified the potential for a penalty in the RFR.
5. Refer the matter to the agency’s legal counsel if a contractor’s poor performance in meeting their SDP Plan benchmarks is serious enough to suggest contract termination, debarment or other actions.

The sourcing lead, PMT or SDP Coordinator should maintain sufficient documentation of all written or verbal communication to support the actions taken to resolve any non-compliance issues with the SDP Plan.
Setting Departmental Benchmarks

- To assist agencies in establishing reasonable and realistic SDP benchmarks in each contract, the following formula may be helpful. It is at the discretion of the sourcing lead to decide which methodology best meets his/her needs according to the specific RFR.

\[
\text{Prior Two Year Average M/WBE Expenditures (If Applicable)} + \text{Projected Additional Expenditures With M/WBE (For Each Year of the Contract)} = \text{M/WBE Benchmark (For Each Year of the Contract)}
\]

- When both MBEs and WBEs are included in a bidder’s SDP response, a separate benchmark should be submitted for each in order to track M/WBE usage and spending separately.

- Benchmarks are expected to increase yearly when factors allow.

Setting Plan Benchmarks

- For bidders that have not previously done business with SDO certified Minority- and Women-Owned Businesses (M/WBEs), benchmarks should be negotiated based on vendor pool availability of certified M/WBEs, the total contract amount, M/WBE availability, geographic location of the project, scope of contractual work or other relevant factors.

- Bidders should be encouraged to research available SDO certified M/WBE vendor pools.

- The Sourcing lead or Supplier Diversity Officer will set timelines for progress reviews for the purpose of compliance and tracking of contractor’s benchmark (either quarterly or mid-year). Reports from contractors will be required to show gross revenues on the contract and expenditures with certified M/WBE firms to verify progress in meeting the benchmarks. Benchmarks will be evaluated every year at the anniversary date or at the time of contract renewal.
Supplier Diversity Program (SDP) Plan Form

**Contract/RFR Document Number:**

**Instructions:** Completing all parts of this form is mandatory. Please read instructions in the SDP section of the solicitation. **Complete one form for each SDO Certified M/WBE Partner Business.**


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**Part I  Bidder/Contractor Information**

Business Name:

Full Address: number, street, and apt. or suite no., city, state, zip

Contact Name:                  PHONE # (   ) - x  

Check one of the following if applicable:  
- MBE  
- WBE  
- M/WBE  
- M/W Non-Profit

**Certification Expiration Date If Applicable**

(copy of the SDO certification letter must be attached):

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**Part II  SDP Partner** (Cannot be the same company as the Bidder/Contractor)

M/WBE Business Name:

Full Address: number, street, and apt. or suite no., city, state, zip

Contact Name:                  Phone # (   ) - x  

Check one of the following if applicable:  
- MBE  
- WBE  
- M/WBE  
- M/W Non-Profit

**Certification Expiration Date If Applicable**

(copy of the SDO certification letter must be attached):

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**Part III  Description of Business Relationship**

Check a minimum of one of these options that best describe the business relationship between Bidder/Contractor and SDP Partner:

- **Subcontract:** include a copy of the written agreement between the Bidder and Subcontractor.
- **Ancillary:** include a copy of the written agreement between the Bidder and Ancillary Partner.
- **Growth & Development:** enclose plan for education, training, sponsorship, mentoring, resource sharing, and/or other initiatives.

Briefly describe the products and/or services the SDP Partner will provide your business:

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**Part IV  Financial Commitment**

Provide information on the committed amount (as a percentage of Bidder/Contractor gross revenue derived from this contract or as an exact dollar figure) to be spent with the certified SDP Partner as part of this relationship.

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<thead>
<tr>
<th>Year</th>
<th>Amount or Percentage</th>
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<tbody>
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</table>

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**Part V  Past Performance**

Have you had past relationships/spending with this SDP partner  
- Yes  
- No

If yes, please provide total spending in previous two years $ .

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**Sign Here:**

Print Name ➤

Authorized Signature ➤ Date ➤
Supplier Diversity Program (SDP) Plan Form Instructions

**Part I**
**Bidder/Contractor Information:** Business name, full address, contact name, phone #, email address and your SDO certification status, if you have one, i.e. if you are SDO certified, please put in the expiration date of your certification. Please be aware you will not receive additional points based on your certification status. Submit a copy of your SDO certification, if applicable.

**Part II**
SDP Partner must be a Women Owned (WBE), Minority Owned (MBE) or Minority and Woman Owned (M/WBE) Business Enterprise or Woman Nonprofit (WNP) or Minority Nonprofit (MNP) certified by the Supplier Diversity Office (fka SOMWBA). You must include the partner’s business name, full address, contact name, phone #, email address and SDO certification status. You must also submit a copy of the partner’s SDO certification. For a complete list of SDO certified vendors please visit their website at [http://www.somwba.state.ma.us/BusinessDirectory/BusinessDirectory.aspx](http://www.somwba.state.ma.us/BusinessDirectory/BusinessDirectory.aspx). Please note that if you are a SDO certified vendor you cannot put yourself as the SDP partner but will be required to partner with another SDO certified business. SDO certified vendors responding to Requests for Response (RFR) are not exempt from this requirement.

**Part III**
**Description of Business Relationship:** In this section the prime Bidder/Contractor must provide a description of the business relationship with the SDP Partner. Please refer to the SDP section of the solicitation (RFR) to determine if any of these options are required in your response and to determine how many options you can use for your SDP plan. For example, unless the RFR requires otherwise, you can select Subcontracting and Growth and Development or you can select Ancillary Services and Growth and Development. However, you must select at least one business relationship and provide a description of the services rendered.

1) Subcontracting: submit SDP Plan form, a partnership agreement and SDP partner’s certification.
2) Ancillary: submit SDP Plan form, a partnership agreement (if available) and SDP partner’s certification.
3) Growth and Development: submit SDP Plan form, growth and development plan (please use a separate sheet) and SDP partner’s certification.

Definitions and examples of the three components can be found at: [http://www.mass.gov/Eoaf/docs/osd/mwbe/subcontracting.doc](http://www.mass.gov/Eoaf/docs/osd/mwbe/subcontracting.doc)

The Supplier Diversity Program offers training on the SDP Plan requirements. The dates of upcoming trainings are located on the SDP website at [www.mass.gov/sdp](http://www.mass.gov/sdp).

**Part IV**
**Financial Commitment:** provide the minimum amount you will spend with the SDP partners as a percentage of the gross revenue derived from the contract or an exact dollar amount. If you select the same percentage or dollar amount for each contract year, please input this information in the Annual Amount or Percentage field(s). If the committed amount is different each contract year, input the percentage or dollar amount in the field that corresponds with the appropriate contract year.

**Part V**
**Past Performance:** Historical spending with the SDP partner. If you have a previous relationship with this partner provide the total for the past two years

Resources available to assist Prime Bidders in finding potential M/WBE partners can be found at: [http://www.mass.gov/Eoaf/docs/osd/sdo/sdp/subcontracting.doc](http://www.mass.gov/Eoaf/docs/osd/sdo/sdp/subcontracting.doc)
Massachusetts Executive Order established a policy to promote the award of State Contracts in a manner that develops and strengthens Minority and/or Women Business Enterprises (M/WBEs). As a result, M/WBEs are strongly encouraged to submit bid responses to this RFR, either as prime vendors, joint venture partners or subcontractors. All Bidders, regardless of their certification status, are required to submit a completed SDP Plan Form as part of their response for evaluation. It is required that Supplier Diversity Program participation accounts for no less than 10% of the total points in the evaluation. Higher evaluation points may be awarded to SDP Plans that show more commitments for use of certified vendors in the primary industry directly related to the scope of the RFR, subcontracting expenditures and partnerships for the purpose of contracting with the Commonwealth.

The PMT requires bidders to make a significant commitment to partner with certified Minority- and Women-Owned Businesses in order to be awarded a contract. An SDO-certified Bidder (formerly known as SOWMBA certified) may not list itself as being a Supplier Diversity Program Partner to its own company. All certified businesses that are included in the bidder’s SDP proposal are required to submit an up to date copy of their M/WBE certification letter. In addition, a narrative statement can be included to supplement the SDP Plan Form providing further details of the SDP commitments. The submission of this narrative statement does not replace the requirement of the SDP Plan Form. Bidders must submit one form for each M/WBE SDP Relationship. Please note that no bidder will be awarded a contract unless and until they agree to commit to at least one (1) of following three (3) SDP Components selected by the PMT:

1. **Subcontracting:** If Bidder commits to Subcontracting in their SDP plan, then they must commit to subcontract a specific dollar amount, or a minimum percentage of dollars earned through an awarded contract, with a SDO-certified company. Although this is only one of several options to meet the requirements for participation in the Supplier Diversity Program, Bidder’s submission of subcontracting commitments may be weighted most heavily. The PMT will set timelines for progress reviews (either quarterly or semi-annually) for the purpose of compliance and tracking of submitted commitments. Please note that all subcontracting partnerships require inclusion of that contract between the Bidder and the M/WBE subcontractor in the Bidder’s bid package. Additional notes from PMT (if applicable): ______

2. **Ancillary Uses of Certified M/WBE Firm(s):** If a Bidder commits to Ancillary Uses of certified M/WBE firm in their SDP plan, then they must include dollar or percentage expenditure commitments for use of these firm(s) with or without the use of written commitments between the Bidder and the M/WBE Firm(s). A description of the ancillary uses of certified M/WBEs, if any, must be included on the SDP Plan Form. Additional notes from PMT (if applicable): ______

3. **Growth & Development:** If a Bidder commits to Growth and Development in their SDP plan, then they must submit a plan with expenditure commitments for education, training, mentoring, resource sharing, joint activities, and sponsorship of a SDO certified companies. Additional notes from PMT (if applicable): ______

Once an SDP Plan is submitted, negotiated and approved, the PMT will then monitor the contractor’s performance.

Resources available to assist Prime Bidders in finding potential M/WBE partners can be found at: http://www.mass.gov/Eoaf/docs/osd/sdo/sdp/20guidance.doc
Evaluation of the SDP Plan

An agency’s evaluation of the SDP Plan should be based primarily on how well it demonstrates the development and strengthening of Minority and Women Business Enterprises (M/WBEs) within the service area defined by the RFR. Participation of M/WBEs should be considered a “best value” criterion in the procurement process. Higher evaluation points should clearly be awarded to SDP Plans that show significant expenditure commitments, more initiatives, use of certified vendors in the primary industry (defined as the industry directly related to the specified contract), subcontracting expenditure commitments and partnerships for the purpose of contracting with the Commonwealth of Massachusetts. The following are recommendations or guidelines that can be used as an evaluation tool and adapted to your RFR. You can make your own RFR/Evaluation components or choose other components and scores that best suit the industry and types of contractors the PMT has targeted for the contract. Thoughtful discussions within the PMT and with the SDP Coordinators will provide the best components in the SDP Plan for the particular procurement.

OSD has developed this sample evaluation grid for the SDP by component options, which includes definitions, information to request from bidders and other helpful information. Agencies should make their own evaluation-scoring sheet based on the SDP components selected for that particular RFR. Scores may be based on a poor, fair, good, very good or excellent rating, on a mathematical formula or other scoring methodology.

<table>
<thead>
<tr>
<th>SDP Component Option</th>
<th>Definition</th>
<th>Bidder Submission Should Include</th>
<th>Additional Information</th>
<th>Considerations for Evaluation</th>
</tr>
</thead>
</table>
| 1. Subcontracting with SDO certified businesses | An individual, business, or organization that is SDO certified and has a contract or formal written agreement to provide services and/or commodities to a Commonwealth contractor. | - Names, addresses, phone numbers, fax numbers, email addresses, and contact persons of SDO certified M/WBE firms proposed within the SDP Plan.  
- A description of each business relationship to be established, e.g. how the proposed relationship(s) will result in increased business and revenue to SDO certified subcontractors.  
- The actual dollar amounts (benchmark), to be spent with each SDO certified MBE and/or WBE firm during the life of the contract. | Using a subcontracting approach in an SDP Plan works best when there is an available pool of qualified M/WBEs. These may be newly incorporated or developing companies that might not be in a position to compete as a prime contractor but could be a valuable subcontracting partner. Subcontractor participation should be based on the broadest and most inclusive available pool of M/WBEs. The services provided via the subcontract will be directly related to the scope of the contract. Agencies should consider and plan for how subcontracting information will be reported by the prime contractor throughout the contract duration. Agencies can identify potential subcontractors by using the SDO certified business list at www.mass.gov/SDO or the SDP statewide contract certified vendor list at http://www.somwba.state.ma.us/Busi | PMTs or SDP Coordinators should rate the bidders' responses based on the commitments made in their SDP Plan. Additional weight should be given to the responses that are proposing the greatest dollar commitment to certified M/WBEs through subcontract agreements and to those responses that commit to at least one certified MBE and one certified WBE. |
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| 2. Ancillary Service/Purchase Agreements with SDO certified businesses | Any use of a SDO certified M/WBE with or without a written agreement. Ancillary services are generally not directly related to the core services or commodity being delivered. As an example, a bidder providing counseling services who purchases office supplies or equipment maintenance from a SDO certified company is an example of an ancillary agreement. | • Names, addresses, phone numbers, fax numbers, email addresses, and contact persons of SDO certified M/WBE firms proposed within the SDP Plan.  
• A description of each business relationship to be established, e.g., how the proposed relationship(s) will result in increased business and revenue to SDO certified businesses.  
• The actual dollar amounts (benchmark), to be spent with each SDO certified MBE and/or WBE firm during the life of the contract. | Using an ancillary approach in an SDP Plan works best where there are limited opportunities to directly subcontract a portion of the services or commodities required under the contract but there is a sufficient pool of SDO certified businesses to provide services or commodities that support the general operation of the bidder. This approach may be combined with other SDP options and may be used when the primary contractor (bidder) is looking for creative initiatives for use of certified vendors. Agencies should consider and plan for how ancillary agreement information will be reported by the prime contractor (bidder) throughout the contract duration. A good example of this approach is when a bidder wants to improve the local economy by building partnerships with certified vendors or a bidder wants to purchase goods and services from certified vendors in its local area that ultimately will increase Commonwealth vendor pools, capacity and community development. | PMTs or SDP Coordinators should rate the bidder’s response based on the commitments made in its SDP Plan. This item may help insure that the bidder’s efforts are not focused primarily on one M/WBE and that maximum utilization is considered. A relatively small amount of the evaluation scoring may be appropriate here. |
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## OPERATIONAL SERVICES DIVISION

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| 3. Growth and Development | A plan that addresses the education, training, mentoring, resource sharing, joint activities and general assistance, provided to M/WBEs, that will result in increased capacity in a specific industry and increases the pool of qualified SDO certified companies. | • Names, addresses, phone numbers, fax numbers, email addresses, and contact persons of M/WBE firms seeking SDO certification proposed within the SDP Plan.  
• A description of each business relationship to be established, e.g., how the proposed relationship(s) will result in increased business and revenue to SDO certified subcontractors. | Using a growth and development approach in an SDP Plan works best when there are little or no documented SDO certified companies available to do business with the Commonwealth. Agencies should consider and plan for how growth and development information will be reported by the prime contractor (bidder) throughout the contract duration. A good example of this type of approach would be a procurement that requires bidders to either: a) Show capacity development through measurable increases in the number of certified M/WBEs within a specified area or within an industry. b) Document steady and significant growth in the annual revenue of certified M/WBEs as a result of mentoring, subcontracting arrangements, joint ventures or other approaches. Bidders would be required to submit documentation of this process and any assistance they have provided to their Minority- and Women-Owned businesses in achieving certification status. | PMTs or SDP Coordinators should rate the bidders' responses based on the commitments made in their SDP Plan. If growth and development activities are one of several SDP options required in the SDP Plan, the PMT should weight the criteria based on the desired result or best value. If the target is increased Commonwealth spending with certified M/WBEs immediately, then subcontracting commitment should be weighted more heavily than growth and development. If, however, the goal is to develop and increase sustainable, long-term relationships and growth, then growth and development initiatives should receive the heaviest weighting. Additional weight should also be given to the responses that are proposing the greatest dollar commitment to certified M/WBEs through growth and development activities and to those responses that commit to at least one certified MBE and one certified WBE. |
By His Excellency

DEVAL L. PATRICK GOVERNOR

EXECUTIVE ORDER NO. 524

ESTABLISHING THE MASSACHUSETTS SUPPLIER DIVERSITY PROGRAM

(Revoking and Superseding Executive Order No. 390)

WHEREAS, The Commonwealth has an affirmative responsibility to develop and maintain equitable practices and policies in the public marketplace;

WHEREAS, a diverse business community strengthens the state economy and is beneficial to all of the citizens of the Commonwealth;

WHEREAS, pursuant to Section 57 of Chapter 7 of the General Laws, it is the policy of the Commonwealth to promote and facilitate the fullest possible participation by all citizens in the affairs of the Commonwealth;

WHEREAS, various public and private programs have been initiated to assist minority and women business enterprises, where applicable, to achieve economic viability, and that state government, as the largest business in Massachusetts,
has a special responsibility to see that all available services and programs are put to the best we;

WHEREAS, the steps set forth in this Executive Order are necessary to guarantee the fullest participation by all citizens of the Commonwealth in the economy of the state and to guarantee the fullest benefits to citizens of programs and services available for assistance.

WHEREAS, pursuant to Section 57 of Chapter 7 of the General Laws, effective May 1, 2010, the Supplier Diversity Office (SDO), the successor agency to the State Office of Minority and Women Business Assistance (SOMWBA), is located within the Operational Services Division (OSD) within the Executive Office for Administration and Finance (ANF) of the Commonwealth; and

WHEREAS, Executive Order 519, issued on January 28, 2010, established an Office of Access and Opportunity within ANF, the purpose of which is to promote non-discrimination and equal opportunity in all aspects of state government, including but not limited to, employment, procurement, and policy relative to state programs, services, and activities.

NOW, THEREFORE, I, Deval L. Patrick, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me by the Constitution, Part 2, c. 2, § 1, Art. I, do hereby revoke Executive Order 390 and order as follows:

Section 1. Declaration of Policy

It is the policy of the Commonwealth to promote equity of opportunity in state contracting; and, to that end, encourage full participation of minority and women owned businesses in all areas of state contracting, including contracts for construction, design, goods and services.

Section 2. Supplier Diversity Program

There is hereby established a Supplier Diversity Program (SDP) within the Supplier Diversity Office (SDO) of OSD for the
purpose of meeting the goals set forth in Section 1, Declaration of Policy.

Subject to the approval and direction of the State Purchasing Agent, or his/her designee, all executive offices, agencies, departments, boards and commissions of the Commonwealth (hereinafter referred to as "Agency" or "Agencies") are hereby directed to implement the SDP set forth in this Executive Order which shall include and reflect narrowly tailored race and gender conscious goals, which pursue equality in public procurement and contracting between minority owned businesses or women owned businesses and other business entities in the Commonwealth of Massachusetts.

For purposes of this Executive Order, Minority Business Enterprise (MBE) and Woman Business Enterprise (WBE) shall have the same meaning as defined in section 58 of chapter 7 of the General Laws.

Goals for MBE and WBE participation in state funded contracts shall be based upon the broadest and most inclusive pool of available MBEs and WBEs capable of performing the contracts and interested in doing business with the Commonwealth in the areas of construction, design, goods and services. The Supplier Diversity Office (SDO), created pursuant to section 58 of chapter 7 of the General Laws and formerly known as SOMWBA, or its successor, shall maintain a current directory of certified MBEs and WBEs which will serve as one source of information in determining the pool of available MBEs and WBEs. Goals shall be established by the State Purchasing Agent, or his/her designee, in consultation with the Secretary of Administration and Finance, or his/her designee, and shall be expressed as overall annual program goals, applicable to the total dollar amount of an Agency's contracts awarded during the fiscal year for each of the Agency's types of contracts.

The State Purchasing Agent, or his/her designee, shall develop a procedure by which Agencies may, for an individual contract, adjust the goals for MBE and WBE participation based upon the results of a disparity study, which shall include an analysis of the actual availability and utilization of minority- and/or women-owned businesses, documented evidence of racial and/or gender
discrimination that created the disparity, a narrowly tailored plan aimed at addressing the discrimination, geographic location, the contractual scope of work, and other relevant factors.

The State Purchasing Agent, or his/her designee, shall develop a good faith efforts waiver procedure by which Agencies may determine, at any time prior to the award of the contract, that compliance with the goals is not feasible and by which Agencies may reduce or waive the goals for an individual contract; provided that, the waiver procedure shall be developed in consultation with the Secretary of Administration and Finance or his/her designee.

Recognizing the importance of joint ventures and partnerships involving MBEs and WBEs in increasing the participation of MBEs and WBEs in state contracting, the State Purchasing Agent, or his/her designee, shall develop guidelines and procedures for Agencies to follow in contracting with such entities. Such guidelines and procedures shall seek to encourage the development of joint ventures and partnerships for the purpose of contracting with the Commonwealth. Such guidelines shall be developed in consultation with the Secretary of Administration and Finance or his/her designee.

Section 3. Capacity Development

SDO, or its successor, is hereby designated the state office responsible for providing a capacity development program to MBEs and WBEs. The capacity development program shall include technical assistance, training, outreach and mentoring to the minority- and women- owned business community and shall include, but not be limited to, the following core areas of business development: strategic planning, financial management planning, human resource management and planning, information technology access and management, and marketing. SDO, as necessary, will work closely with agencies within the Executive Office for Housing and Economic Development, or its successor, to coordinate and expand such efforts within the MBE and WBE community.

Contracting Agencies of the Commonwealth may supplement the capacity development program provided by SDO with industry specific assistance, technical assistance, training, mentoring, education, and procurement information. In addition, SDO will
collaborate with other public and private sector entities and include the results of these collaborative efforts in their annual report to the Secretary of Administration and Finance, or his/her designee, and the State Purchasing Agent.

Section 4. Program Oversight and Enforcement
The Operational Services Division shall be responsible for the overall management, monitoring and enforcement of the program established pursuant to this Executive Order. The Director of SDO shall be designated within OSD for program development, coordination, monitoring contract compliance across all Agencies, addressing potential program violations and coordinating Agency enforcement activities with the State Purchasing Agent, or his/her designee, and the Secretary of Administration and Finance, or his/her designee.

Each Secretary and Agency head shall designate a highly placed individual to serve as the Supplier Diversity Officer, who shall be charged with management of the Supplier Diversity Program within the Secretariat/Agency. Each Secretary and Agency head may designate such other personnel as they deem necessary to support the implementation, monitoring, and enforcement of this program and the coordination of those functions. Each Secretariat shall ensure that Agencies establish, subject to guidelines developed by the OSD, provisions that serve as governing standards for contract compliance. It is the intention of this Executive Order that the principles underlying the SDP be incorporated into the fabric of general management in state government.

Section 5. Reporting Requirements
Each Secretariat and Agency shall report annually on the prior fiscal year's activities by no later than the last Friday in November to the Director of SDO on the effectiveness of the program, including a report of the total dollar amounts, including prime contracting and subcontracting, for vertical and horizontal construction and commodities and services, both awarded and actually paid to MBEs and WBEs in all areas of state contracting.

The Director of SDO shall report annually on the prior fiscal year's activities by no later than March 15th to the Governor,
Secretary of Administration and Finance, or his/her designee, the State Purchasing Agent and the SDO Advisory Board, which is established by this Executive Order, on its progress in assisting minority- and women-owned businesses, including a review and, where necessary, modification of its certification process to ensure that it operates effectively. This report shall also include the progress of Secretariats and Agencies in meeting the requirements of the SDO program.

Additionally, the Supplier Diversity Office shall prepare quarterly reports regarding the progress of secretariats and agencies in meeting the requirements of the SDO program.

Section 6. Supplier Diversity Office Advisory Board

The Executive Director of SDO, with the approval of the State Purchasing Agent, shall make recommendations to the Secretary of Administration and Finance, or his/her designee, who shall appoint an SDO Advisory Board, not to exceed 20 members, which shall assist the SDO in the implementation of this Executive Order. In addition, the Advisory Board shall be responsible for ensuring that the mission of the SDP, which is to promote the award of state contracts in a manner that develops and strengthens certified MBEs and WBEs, is carried out in a responsible manner and for assisting the Executive Director in the development, implementation and promotion of the program.

Advisory Board members shall serve for two-year terms, except that
the initial appointments, one half shall be appointed to one-year terms,
and one half shall be appointed to two year terms. Members may serve a maximum of three full two-year terms. Current members of the Affirmative Market Program (AMP) Business Advisory Board, created pursuant to Executive Order 390, may remain in their current capacity for a period not to exceed one year from the effective date of this Executive Order.
Section 7. Other Commonwealth Public Entities

Independent authorities, public institutions of higher education, elected officials, constitutional officers, the legislature and judiciary are encouraged to adopt MBE and WBE policies and programs consistent with this Executive Order.

Section 8. Effective Date
This Executive Order shall take effect immediately and shall continue in effect until amended, superseded, or revoked by subsequent Executive Order.

Given at the Executive Chamber in Boston this 15th day of September in the year of our Lord two thousand and ten, and of the Independence of the United States of America two hundred and thirty-four.

DEVAL L. PATRICK
GOVERNOR
Commonwealth of Massachusetts

WILLIAM FRANCIS GALVIN
Secretary of the Commonwealth

GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS