

San Diego Association of Governments

SMALL BUSINESS PROGRAM

FOR STATE AND LOCALLY FUNDED PROJECTS

OCTOBER 2021

SANDAG



SAN DIEGO ASSOCIATION OF GOVERNMENTS

401 B Street, Suite 800 | San Diego, CA



BOARD OF DIRECTORS



The 18 cities and county government are SANDAG serving as the forum for regional decision-making. SANDAG builds consensus; plans, engineers, and builds public transit; makes strategic plans; obtains and allocates resources; and provides information on a broad range of topics pertinent to the region's quality of life.

Table with 4 columns: Chair, Vice Chair, Second Vice Chair, Executive Director. Lists members for various cities and organizations including Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, San Diego, San Marcos, SanTEE, Solana Beach, Vista, San Diego County, and various state and federal departments.

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PROGRAM OBJECTIVES

The San Diego Association of Governments (SANDAG) is committed to increasing business opportunities for small businesses and to continue providing economic opportunities to the San Diego business community. It is the policy of SANDAG to encourage the participation of small businesses on SANDAG projects. It is the intention of SANDAG to create a level playing field on which small businesses can compete fairly on contracts and subcontracts. Therefore, SANDAG has established the Small Business (SB) Program for the purpose of promoting contracting opportunities for small businesses.

The objectives of the SB Program include:

1. Removing barriers for SBs in the bidding, award, and administration of SANDAG projects;
2. Creating a level playing field on which SBs can compete fairly on non-federally funded SANDAG projects;
3. Increasing the number of certified SBs participating in non-federally funded contracts;
4. Increasing overall competition on non-federally funded contracts potentially allowing for the completion of projects at a lower overall cost;
5. Confirming that firms certified by the California Department of General Services (DGS) are eligible for SB participation allowed under the Program;
6. Assisting the development of firms to compete successfully in the marketplace outside the program; and.
7. Regularly evaluating the progress of the Program using accumulated availability and utilization data to determine specific program provisions that require modification, expansion, and/or curtailment.

As evidence of SANDAG's commitment to pursue the objectives of the SB program, the Executive Director has designated Elaine Richardson, Director of Diversity and Equity, as the SB Liaison Officer (SBLO). In this capacity, Elaine Richardson is responsible for implementing all aspects of the SB Program. Implementation of the SB Program is accorded the same priority as compliance with all other legal obligations incurred by SANDAG in its financial assistance agreements with the State and/or Local requirements.

The SB Program is a separate program from the SANDAG Disadvantaged Business Enterprise (DBE) Program.

SANDAG has disseminated this policy statement to all departments of our organization. Additionally, SANDAG will post this policy on the SANDAG website for SB and non-SB businesses that are interested in performing work on SANDAG projects. Through such efforts, SANDAG will ensure contracting and procurement related processes promote equity in access, consideration, and opportunity for small businesses.



Elaine Richardson, Director
Office of Diversity & Equity
San Diego Association of Governments

October 1, 2021

Date

DEFINITION OF TERMS

SANDAG will adopt the following definitions listed below for this program:

Compliance Information System (CIS) – The web-based supplier diversity software provided by SANDAG to contractors¹ and accessible from any internet browser on any platform or operating system.

Best Efforts – Efforts undertaken by the prime to achieve the established SB goal or other requirements which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the SANDAG SB Program requirement.

Joint Venture – An association of two or more businesses established to carry on a single business activity that is limited in scope and duration. SB participation in a joint venture will be based on the sharing of real economic interests in the venture and will include proportionate control over management, interest in capital acquired by the joint venture, and interest in earnings.

Small Business (SB) – A Small Business is a for-profit, small business concern with a three-year average annual gross revenue not exceeding \$15 million dollars and is certified by the California Department of General Services (DGS)².

SMALL BUSINESS LIAISON OFFICER

SANDAG has designated the following individual as the Small Business Liaison Officer (SBLO):

Ms. Elaine Richardson
Director of Diversity and Equity
San Diego Association of Governments
401 B Street, Suite 800
San Diego, CA 92101
Telephone: (619) 699-6956
Email: elaine.richardson@sandag.org

In that capacity, the SBLO is responsible for implementing all aspects of the SB program and ensuring that SANDAG complies with all provisions of the SB Program. The SBLO has direct, independent access to the Executive Director concerning SB Program matters.

The SBLO and/or designee's duties include, but are not limited to, the following activities:

1. Gathers and reports statistical data and other information as required.
2. Reviews applicable contracts, purchase requisitions, advertisements, boilerplate language specifications and other related documentation specific to implementing applicable SB requirements.
3. Ensures that bid notices and requests for proposals are made available to SBs in a timely manner.

¹ References to contractors includes consultants.

² SANDAG does not recognize the DGS Public Works Small Business Certification for purposes of the SB Program.

4. Reviews non-federally funded contracts, task orders, and procurements for purposes of applying SB goals which may include the use of scoring criteria or preference points for bidders/proposers who use SBs.
5. Analyzes SANDAG’s progress towards meeting overall SB goal commitments by monitoring individual contract SB attainments (Compliance Information System).
6. Participates in pre- and post-award Speed Networking events for on-call procurements greater than \$20M.
7. Assists in pre-bid meetings for purposes of reviewing SB solicitation and contract requirements with potential bidders and/or offerors.
8. Advises the Executive Director on SB matters and achievements.
9. Conducts contract SB responsiveness reviews, including assessing SB participation eligibility towards the SB goal, as applicable.
10. Enforces appropriate remedies for non-compliance.

SB CERTIFICATION

SANDAG recognizes the SB certification from the California Department of General Services. SANDAG refers interested parties to the DGS website for the SB directory and certification information:

- <https://caleprocure.ca.gov/pages/sbdvbe-index.aspx>

Changes in SB Certification Status

All changes in SB certification status (i.e., decertification) must be reported to the SANDAG SBLO immediately, but no later than 30 days from the date a firm has lost its SB status. It is the responsibility of the prime to provide notice of decertification to the SBLO.

SB GOAL DETERMINATION

SANDAG has established an SB goal of 15% on state and locally funded contracts and procurement opportunities that meet the Program’s applicability requirements.

Methodology for Setting SB Goal

The Office of Diversity and Equity recommends replacing the existing 15-20% SB Objective with an overall agency SB goal of 15%. This goal was developed by analyzing SANDAG SB utilization. SANDAG has achieved 13% overall SB utilization from FY 2013-2019. For the last two (2) fiscal years, SANDAG has achieved over 15% SB utilization (20% for 2018 and 18% for 2019). This shows that SANDAG can meet the proposed 15% goal.

DGS Certified SB Only			
Fiscal Years	Prime \$ Paid	SB \$ Paid	SB Utilization
FY 2017	\$51,974,996	\$4,794,532	9%
FY 2018	\$60,003,771	\$3,469,690	6%
FY 2019	\$71,595,740	\$4,756,970	7%

FY 2020	\$79,647,300	\$6,080,758	8%
FY 2021	\$117,666,224	\$13,547,733	12%
Last 5 FYs	\$380,888,031	\$32,649,683	9%

DGS Certified SB & DBE			
Fiscal Years	Prime \$ Paid	SB \$ Paid	SB Utilization
FY 2017	\$51,974,996	\$5,488,035	11%
FY 2018	\$60,003,771	\$5,208,836	9%
FY 2019	\$71,595,740	\$9,716,224	14%
FY 2020	\$79,647,300	\$13,519,815	17%
FY 2021	\$117,666,224	\$23,392,230	20%
Last 5 FYs	\$380,888,031	\$57,325,139	15%

The participation of small businesses toward the overall SB goal will be achieved through the utilization of SBs in any combination (including SB prime and subcontract participation), at any tier level, and across all funding eligible sources. ODE will monitor SB participation and the efforts toward meeting the 15% goal and will review the achievement of the overall goal to measure success.

SANDAG will regularly review SB attainments to determine if any additional measures should be implemented to meet the established overall SB goal. SANDAG will maintain strong outreach efforts to encourage small businesses to become certified as SBs, to afford SANDAG the ability to set and meet realistic SB goals.

Applicable Procurements

The SB goal of 15% applies to all California State and locally funded construction, Job Order Contracts (JOC), Construction Management (CM) bench, and Architectural & Engineering (A&E) bench projects over \$100,000 and that have potential subcontracting opportunities.

SB goals will be included in the solicitation templates for RFP, IFB, and other solicitation documents. Project pre-bid meetings will include information on the SB goal, as applicable. SB goals will be entered into and tracked in CIS in the same manner they are for DBE goals. Any requests for a waiver to the SB goal must be reviewed on a case-by-case basis and approved by the SBLO.

MEETING AND COUNTING SB PARTICIPATION

Sample Bid Specification:

The requirements of the SANDAG SB Program apply to this contract. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offers, including those who qualify as a SB. A SB goal of 15% percent has been established for this contract. The bidder/offers will make Best Efforts to meet the contract goal for SB participation in the performance of this contract. The bidder/offers will be required to submit the SB Commitment form with the bid.

Counting SB Participation

SBs may perform as contractors, subcontractors to a Contractor (1st tier), or subcontractor to subcontractor (2nd tier), etc. Only the value of the work actually performed by the SB, including materials and supplies, will be counted toward the SB participation goal. SANDAG will not count the participation of a SB subcontract until the SB has been paid.

SB Termination/Substitution

SANDAG will require that a contractor not partially or fully terminate or substitute a SB subcontractor without prior written consent from SANDAG. The contractor must notify the SBLO of the SB subcontractor's or supplier's inability or unwillingness to perform on the project provide a revised SB Commitment form (Attachment A: SB Commitment Form).

Joint Ventures

Joint ventures between non-SB and SBs may be certified where the SB's participation is at least 51%. The SBs must perform a clearly defined portion of the work equal to or greater than the SB's share in the ownership, control, management, responsibility, risk, and profits of the joint venture.

Joint Checks

A joint check is a two-party check issued by the prime contractor to the SB subcontractor which is submitted to the SB subcontractor's materials supplier. The check is issued to the SB subcontractor and the materials supplier jointly to guarantee payment to the supplier for the materials or supplies used by the SB subcontractor.

MONITORING, COMPLIANCE, AND ENFORCEMENT

SANDAG has implemented mechanisms to ensure compliance with the SB (e.g., applying legal and contract remedies available under state and local law). SANDAG's SB Program includes monitoring and enforcement mechanisms to ensure that work committed to SBs is actually performed by SBs. Such mechanisms provide a running tally of actual SB attainments (e.g., payments actually made to SB firms), including a means of comparing these attainments to commitments.

SANDAG undertakes ongoing monitoring of prime payments to subcontractors over the course of any covered contract. Such monitoring activities are accomplished through the following method:

- Through the SANDAG Compliance Information System (CIS), monthly reporting of prime contractor and subcontractor payments to subcontractors, review by SANDAG of compliance with prompt payment requirements and follow up with prime contractors and subcontractors for explanations when prompt payment requirements are not met.
- Use of an automated system that requires real time entry of payments to, and receipts by prime contractors and subcontractors and regularly monitoring that system. SANDAG implemented the Compliance Information System (CIS) and requires prime contractors and subcontractors to report through CIS. SANDAG monitors prompt payments to subcontractors using CIS.

SANDAG proactively reviews contract payments to subcontractors including SBs.

SANDAG may perform interim audits of contract payments to SBs. The audit will review payments to SB subcontractors to ensure that the actual amount paid to SB subcontractors equals or exceeds the dollar amounts committed.

Enforcement

SANDAG will provide appropriate means to enforce the SB Program requirements. These means may include, but are not limited to, the following:

- Withholding monthly progress payments
- Assessing sanctions
- Liquidated damages, and
- Disqualifying the contractor from future bidding as non-responsible.

SANDAG will keep a running tally of actual payments to SB firms for work committed to them at the time of contract award with the use of SANDAG's Compliance Information System.

Compliance Information System

SANDAG has developed a detailed record keeping system as a mechanism for monitoring and tracking SB commitments and attainments. The system includes procedures adopted by SANDAG to comply program requirements and maintenance of support documentation including subcontractor commitments, contract documents for all subcontractors, and monthly payment reporting from prime contractors. SANDAG uses CIS, a secured, web-based system, to monitor and report SB commitments, payments, and attainment of SB contract goals. CIS is used to track all SANDAG contracts.

The use of CIS is mandatory for all contractors and subcontractors, unless SANDAG provides written instructions otherwise. Contractor shall report subcontractor payment details to SANDAG using the web-based Compliance Information System (CIS) by the 15th of each month. Subcontractors with lower tier SB subcontractors shall report payment details to SANDAG using CIS within 15 days from the date payment is received from the contractor or higher tier subcontractor.

Contractor is responsible for ensuring subcontractors are verifying payments through CIS on a timely basis and shall promptly notify delinquent subcontractors to verify payments. SANDAG may impose penalties, liquidated damages, or withhold payments up to \$10,000 each month per the contract if contractor fails to timely report subcontractor payments or reasonably notify delinquent subcontractors to report verification of payments.



ATTACHMENT A: SB COMMITMENT FORMS



SANDAG PROPOSER SMALL BUSINESS COMMITMENT FORM

Proposer to Complete this Section				
1. Contract No.:				
2. JO/WO/Sup/TO/Amend #				
3. Project Description:				
4. Proposer Name:				
5. Contract SB Goal:		<input type="checkbox"/> _____ % SB Goal		
6. Total No. of ALL Subs:				
SB Information				
7. SB Name and Contact Information	8. Description of Services to be Provided	9. SB Cert. No.	10. SB Participation \$ Value	11. SB %
SANDAG to Complete this Section		SB Participation		
18. Proposed Contract Execution Date: _____		12. Total % Claimed: _____		
<p align="center">SANDAG certifies that all SB certifications are valid and the information on this form is complete and accurate:</p>		<p align="center"><i>IMPORTANT: Identify all SB firms being claimed for credit, regardless of tier. Written confirmation of each listed SB is required.</i></p>		
		13. Preparer's Signature: _____		
19. SANDAG Representative Signature: _____		14. Preparer's Name: _____		
20. SANDAG Representative Name: _____		15. Preparer's Title: _____		
21. SANDAG Representative Title: _____		16. Tel. No.: _____		
22. Tel. No.: _____		17. Date: _____		
23. Date: _____				