



Washington Metropolitan Area Transit Authority

STANDARD OPERATING PROCEDURE

Procedure Number: SOP #21-12

Small Business Programs Contract Compliance

May 24, 2023

Revision History

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1 Scope

- 1.1 This Standard Operating Procedure (SOP) applies to the Washington Metropolitan Area Transit Authority (WMATA) Small Business Auditors, Contract Administrators, prime contractors and small and minority owned business subcontractors.
- 1.2 This document has been created in compliance with the Quality Management System Plan (QMSP), and Policy Instruction (P/I) 1.1, Document Governance and Hierarchy and P/I 6.1, Records Management.

2 Purpose

The purpose of this SOP is to provide instructions on organizing and reviewing prime contractor and small and minority owned business subcontractor compliance on federally funded contracts with established Socioeconomic Program (SEP) goals.

3 Definitions

- 3.1 **Contract Compliance:** A verification tool that is necessary in monitoring not only contract performance but investigating whether the Disadvantaged Business Enterprise (DBE)/Small Business Enterprise (SBE) subcontractor actually performed any work on the project. Contract Compliance consists of two phases: (1) pre-award and (2) post award.
- 3.2 **Equipment:** Refers to a hard hat, vest, composite boots, and camera, which are used when conducting a construction site visit.
- 3.3 **Supplier Portal:** The online business registration tool through which businesses must create a vendor profile when seeking to do business with Metro. Program certification is also facilitated and completed through the Supplier Portal.

4 Acronyms

- 4.1 **CFR** – Code of Federal Regulations
- 4.2 **CLM** – Contract Lifecycle Management
- 4.3 **CUF** – Commercially Useful Function
- 4.4 **DBE** – Disadvantaged Business Enterprise
- 4.5 **DOT** – Department of Transportation
- 4.6 **MBE** – Minority Business Enterprise
- 4.7 **NTP** – Notice to Proceed
- 4.8 **P/I** – Policy Instruction
- 4.9 **PRC** – Procurement Review Committee

- 4.10 **QMSP** – Quality Management System Plan
- 4.11 **SBE** – Small Business Enterprise
- 4.12 **SEP** – Socioeconomic Program
- 4.13 **SOP** – Standard Operating Procedure
- 4.14 **TSR** - Termination Substitution Reduction
- 4.15 **WMATA** – Washington Metropolitan Area Transit Authority

5 Responsibilities

- 5.1 The **Small Business Programs Office Director** is responsible for the following:
 - (a) Implementing appropriate mechanisms to ensure compliance with the 49 Code of Federal Regulations (CFR) Part 26 requirements by all program participants (e.g., applying legal and contract remedies available under federal, state, and local law).
 - (b) Developing a monitoring and enforcement mechanism to ensure that work committed to small and minority owned businesses at contract award is performed by the small and minority owned business.
 - (c) Providing a mechanism for running a tally of actual SEP attainments (e.g., payments made to small and minority owned firms) and ensuring that such attainments are credited to SEP participation in the overall and/or contract goals.
- 5.2 The **Small Business Programs Office Manager** is responsible for the following:
 - (a) Ensuring all direct reports are aware of this procedure.
 - (b) Developing and reviewing all training requirements for the implementation of this SOP.
 - (c) Receiving SEP worksheets in the Contract Lifecycle Management (CLM) system and assigning SEP worksheets to Senior Small Business Auditors.
- 5.3 The **Small Business Programs Office Senior Small Business Auditor** is responsible for conducting contract compliance on federally funded contracts where SEP goals are established.
- 5.4 The **Contract Administrator** (in the post award stage) is responsible for notifying the Small Business Programs Office in instances where the agreed upon DBE goal entered in CLM is different (higher or lower) than the goal cited in the contract and DBE memorandum. This notification also pertains to task orders, modifications and change orders.

6 Process Steps

6.1 File Review

- (a) The Small Business Programs Office may review the files of currently certified small and minority owned firms for compliance with the WMATA SEP Program Plan and the 49 CFR Part 26 Department of Transportation (DOT) Program Provisions and Guidelines; and
- (b) May review the contracts of any prime contractor at any time to ascertain compliance with the WMATA SEP Program Plan and 49 CFR Part 26.

6.2 The Senior Small Business Auditor will develop a contract monitoring file with the following pre-award and post-award processes:

6.2.1 Contract Compliance Cycle (Pre-Award)

- 6.2.1.1 The Program Office identifies needs for goods and services.
- 6.2.1.2 The Program Office develops the Scope of Work/Specifications.
- 6.2.1.3 The Program Office enters the requisition into CLM, which is routed to the Office of Procurement and Materials to be assigned to a Contract Administrator.
- 6.2.1.4 The Office of Management and Budget Services verifies funding availability for the purchase.
- 6.2.1.5 The Contracting Officer/Contract Administrator must determine the appropriate method to procure and the Office of Management and Budget Services must verify the funding source.
- 6.2.1.6 The Office of Procurement and Materials requests the SEP goal from the Small Business Programs Office.
- 6.2.1.7 The Small Business Programs Office reviews the submitted SEP Goal Worksheet within CLM.
- 6.2.1.8 The Manager, Small Business Programs Office reassigns the SEP Goal Worksheet to a Senior Small Business Auditor.
- 6.2.1.9 The Procurement Review Committee (PRC) will approve the recommended/newly proposed SEP goal.
- 6.2.1.10 If the SEP goal worksheet is a task order review, the Small Business Programs Office will review and approve it in CLM.
- 6.2.1.11 Once approved by the Chief Procurement Officer/PRC, the approved goal will be entered into CLM by the Small Business Programs Office.
- 6.2.1.12 The Contracting Officer/Contract Administrator solicits the procurement.
- 6.2.1.13 The Contracting Officer/Contract Administrator receives quotes, bids, and proposals.
- 6.2.1.14 The Contracting Officer/Contract Administrator reviews the quotes, bids, and proposals. If a bid is received the Contracting Officer/Contract Administrator shall submit the lowest bid to the assigned auditor. If a proposal is received, the Contracting

Officer/Contract Administrator shall submit it to the Small Business Programs Office.

- 6.2.1.15 The Contracting Officer/Contract Administrator shall submit Appendix B from the lowest bidder to the Small Business Programs Office.
- 6.2.1.16 The Small Business Programs Office will respond to the Contracting Officer/Contract Administrator and Program Office in writing to confirm the responsiveness of the Appendix B review.
- 6.2.1.17 When the Appendix B review is completed by the Small Business Programs Office, the Contracting Officer/Contract Administrator shall execute a Purchase Order or contract through CLM.
- 6.2.1.18 Once the "Notice to Proceed" (NTP) is sent to the awardee, the Contracting Officer/Contract Administrator will send a copy of the NTP to the assigned auditor.

6.2.2 Contract Compliance Cycle (Post Award)

- 6.2.2.1 The Office of Procurement and Materials notifies the Small Business Programs Office assigned auditor of the "NTP" date in writing.
- 6.2.2.2 The Small Business Programs Office auditor shall send an initial contract compliance letter to the stakeholders.
- 6.2.2.3 The Small Business Programs Office auditor shall verify if the assigned Contracting Officer/Contract Administrator has completed subcontractor setup. If not, the Small Business Programs Office will send a notification for setup to the Contract Administrator.
- 6.2.2.4 The Office of Procurement and Materials/Program Office shall schedule the kickoff meeting and send the calendar invite to the assigned Small Business Programs Office auditor.
- 6.2.2.5 The Small Business Programs Office auditor shall monitor the contract monthly for reporting, attend progress meetings, and update the contract compliance tracker.
- 6.2.2.6 If the prime contractor fails to report, the assigned Small Business Programs Office auditor will issue a noncompliance letter.
- 6.2.2.7 The prime contractor is required to submit a Termination, Substitution, and Replacement (TSR) form to Office of Procurement and Materials and copy the assigned auditor for any requests to add, remove, and/or substitute a subcontractor.
- 6.2.2.8 Once the Termination, Substitution, and Replacement (TSR) review is complete, the Small Business Programs Office shall forward a determination to the Office of Procurement and Materials and the prime contractor.
- 6.2.2.9 For a request to add, remove, and/or substitute a DBE, the prime contractor must submit the TSR or waiver to Office of Procurement and Materials.
- 6.2.2.10 The Office of Procurement and Materials forwards the request to the Small Business Programs Office for review.

- 6.2.2.11 The Small Business Programs Office reviews the request and sends the final determination to the Office of Procurement and Materials.
- 6.2.2.12 The auditor shall continue to monitor for compliance with the contract, participation forms, and sub agreements.
- 6.2.2.13 The Program Office/Office of Procurement and Materials shall begin the close-out process.
- 6.2.2.14 If the contract is closed, the Office of Procurement and Materials/Program Office must send a copy of the Release of Retainage form to the Small Business Programs Office (if applicable).
- 6.2.2.15 The Small Business Programs Office receives the contract that has an assigned DBE goal to determine attainment.

6.3 Prompt Payment Review

6.3.1 The Senior Small Business Auditor assigned to Prompt Payment will review the Prompt Payment report uploaded by the prime contractors, subcontractors, and sub-tiers to ensure that they have been uploaded into the WMATA Prompt Payment tool by each month regardless of whether they have performed any services or received payment for invoices. If no payment is received, they should report \$0.00. The monthly reports are to include the following:

- (a) Amount paid by the DBE/Minority Business Enterprise (MBE) subcontractor for this reporting period.
- (b) Date paid to subcontractor.
- (c) Invoice number and date.
- (d) Invoice amount.
- (e) Description of work.
- (f) Percentage of physical work completed.
- (g) Documentation of payment must include any of the following:
 - automated clearing house transfers, checks, receipts, invoices marked as paid, or other evidence of Prompt Payment receipt. ****Note: The Prompt Payment Reporting form is not sufficient documentation for proof of payment and should only be utilized during instances when Prompt Payment reporting through the WMATA Supplier Portal is not available to reporting parties and must be accompanied by the aforementioned proof of payment documentation.****

6.4 The Senior Small Business Auditor may conduct periodic unannounced Commercially Useful Function (CUF) reviews in person and/or via virtual worksite visits and makes random calls to subcontractors during the life of the contract. The Senior Small

Business Auditor shall use the Commercially Useful Functions Checklist for completing the reviews.

6.5 Determination of Goal Achievement

6.5.1 For contract closeout, the Senior Small Business Auditor completes the following:

- (a) Discuss the SEP goal attainment status.
- (b) Resolve any previous Prompt Payment issues.
- (c) Review SEP firm utilization.
- (d) Review any other finding or expectation required of the prime contractor prior to the official contract closing.
- (e) Review conditions for withholding retainage within the contract.

6.5.2 The Senior Small Business Auditor shall complete the Small Business Programs Office SEP Contract Compliance Final Analysis Report Form.

7 Safety Management

N/A

8 References

- 8.1 49 CFR Part 26 Subpart F
- 8.2 P/I 1.1 Document Governance and Hierarchy
- 8.3 P/I 6.1 Records Management
- 8.4 Quality Management System Plan (QMSP)
- 8.5 The Office of Procurement and Materials' Best Practices Manual, Chapter 7, Socio-Economic Programs
- 8.6 United States Department of Labor Wage and Hour Division Payroll form

9 *Records

- 9.1 Appendix B Review Form
- 9.2 Commercially Useful Functions Checklist
- 9.3 Small Business Programs Office SEP Contract Compliance Final Analysis Report Form

*These Records are controlled documents that can be located externally on wmata.com under, "Business," "Small Business Programs Office," "Resources." They can also be located internally on our intranet page under, "Knowledge Library," "Resources," in the category marked, "Small Business Programs Office."

10 Appendices, Attachments and/or Exhibits

N/A

11 Approvals

Controlled Document

I hereby state that I have found no errors of this controlled quality document, and thus the document is ready for release.

Content Approved

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Title: Chief Procurement Officer

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