

US Small Business Administration: Federal Government Contracting Overview

by Practical Law Commercial Transactions

Status: **Maintained** | Jurisdiction: **United States**

This document is published by Practical Law and can be found at: content.next.westlaw.com/w-029-9789

Request a free trial and demonstration at: tr.com/practicallaw-home

A Practice Note providing an overview of the programs offered by the US Small Business Administration (SBA), which are authorized under the Small Business Act (15 U.S.C. §§ 631 to 657u), to assist small businesses in obtaining federal government contracts. These programs include those available to businesses owned by women, service-disabled veterans, disadvantaged individuals, and those located in historically underutilized business zones (HUBZones).

The US Small Business Administration (SBA) is a federal agency that provides support to small businesses through programs authorized under the Small Business Act (the "Act") (15 U.S.C. §§ 631 to 657u). The Act requires federal agencies to:

- Facilitate the participation of small business concerns (SBCs) as prime contractors, subcontractors, and suppliers for the federal government.
- Take all reasonable steps to eliminate obstacles to small business participation in federal contracting.
- Avoid bundling of contract requirements that inhibit small business participation in procurements as prime contractors.

(15 U.S.C. § 631(j).)

Qualifying and Registering for Federal Government Contracts

To bid on federal government contracts, a small business must:

- Identify the North American Industry Classification System (NAICS) code that applies to each product or service the business wants to supply to the government.
- Qualify as a small business under SBA size standards set out in 13 C.F.R. § 121.201.
- Register with and obtain a Unique Entity Identifier (UEI) and a Commercial and Government Entity (CAGE) code from the System for Award Management (SAM) database in which companies can certify:

- their eligibility for contracts reserved for small businesses; and
- whether they qualify as a business that is disadvantaged, women-owned, veteran-owned, or located in an underutilized area.
- Comply with the Federal Acquisition Regulation (FAR) (Title 48 of the Code of Federal Regulations). For more information on FAR, see [Practice Note, Federal Acquisition Regulation for Government Contracts: Overview](#).
- Meet the requirements for government contracting for small businesses set out in 13 C.F.R. §§ 125.1 to 125.33, including, where applicable, requirements:
 - to obtain a Certificate of Competency (COC) (13 C.F.R. § 125.5);
 - for joint ventures to meet to submit an offer for a procurement or sale reserved for small business (13 C.F.R. § 125.8); and
 - governing SBA's small business mentor-protégé program (13 C.F.R. §§ 125.9 and 125.10).

Identifying Available Contracts

Small businesses wanting to find contract opportunities can use resources provided by the SBA, including:

- The [SBA - Dynamic Small Business Search](#) database.
- The [SBA: System for Award Management](#).
- The contracting, assistance listings, and entity registration options available at [SAM.gov | Home](#).

US Small Business Administration: Federal Government Contracting Overview

- Registration with the [US Small Business Administration Subcontracting Network \(SubNet\)](#), which is a database of subcontracting opportunities posted by large contractors.
- The SBA's [Directory of Federal Government Prime Contractors with Subcontracting Plans](#).
- Small businesses (see [Qualifying and Registering for Federal Government Contracts](#)).
- At least 51% unconditionally and directly owned and controlled by women who are US citizens.
- Managed, on a day-to-day and long-term basis, by women.

Set-Aside Contracts

Federal government agencies are required to set aside 23% of their contract dollars to eligible small businesses, with most contracts under \$150,000 available exclusively to small businesses. The SBA works with the agencies in awarding contracts to small businesses to meet this obligation and some opportunities are only available to businesses that participate in SBA contracting assistance programs. These include:

- The Women-Owned Small Business Federal Contracting program (see [Women-Owned Small Businesses](#)).
- The Service-Disabled Veteran-Owned Small Business program (see [Service-Disabled Veteran-Owned Small Businesses](#)).
- The 8(a) Business Development program (see [Small Disadvantaged Businesses Under the 8\(a\) Business Development Program](#)).
- The SBA Mentor-Protégé program (see [SBA Mentor-Protégé Program](#)).
- The 7(j) Management and Technical Assistance Program (see [7\(j\) Management and Technical Assistance Program](#)).
- The HUBZone program (see [HUBZone Program](#)).
- The Natural Resources Sales Assistance program (see [Natural Resource Sales Assistance Program \(NRSAP\)](#)).

Women-Owned Small Businesses

The federal government aims to award at least five percent of its annual contracting dollars, in the aggregate, to women-owned small businesses (WOSBs) and Economically Disadvantaged WOSBs (EDWOSBs). EDWOSBs are eligible to apply for all contracts available to WOSBs but certain contracts are only made available to EDWOSBs (if at least two eligible EDWOSB entities are competing for the opportunity).

To participate in the WOSB program, companies must register annually at [SBA: WOSB Certification](#). Participating companies must be certified to be:

To qualify as an EDWOSB, the business must meet the WOSB requirements and be owned and controlled by one or more women who each have:

- Personal net worth of less than \$850,000 (excluding ownership in the business concern and equity interest in primary personal residence).
- Average adjusted gross income of \$400,000 or less averaged over the most recent three years.
- Fair market value of all assets (including primary residence and value of the business concern) of no more than \$6,500,000.

(13 C.F.R. §§ 127.200 to 127.203.)

For more information on the WOSB and EDWOSB programs, see [SBA: Women-Owned Small Business Federal Contract program](#).

Service-Disabled Veteran-Owned Small Businesses (SDVOSB)

The federal government aims to award at least three percent of its annual contracting dollars to businesses that are:

- Small businesses (see [Qualifying and Registering for Federal Government Contracts](#)).
- At least 51% owned and controlled by one or more veterans with service-connected disabilities.
- Managed, on a day-to-day and long-term basis, by one or more service-disabled veterans.
- Certified as a SDVOSB by the SBA.

(13 C.F.R. §§ 128.200 to 128.310.)

Small Disadvantaged Businesses Under the 8(a) Business Development Program

The federal government aims to award at least five percent of its annual contracting dollars to businesses that are certified at [certify.SBA.gov](#) to:

- Be small businesses (see [Qualifying and Registering for Federal Government Contracts](#)).

- Not be previous participants in the 8(a) program.
- Be at least 51% unconditionally owned and controlled by US citizens who are socially and economically disadvantaged.
- Have:
 - net worth of \$850,000 or less (excluding ownership interest in the concern and equity in primary personal residence);
 - adjusted gross income of \$400,000 or less averaged over the most recent three years; and
 - \$6,500,000 or less in assets (including primary residence and value of the business concern).
- Have good character and potential to perform on contracts.

(13 C.F.R. §§ 124.1 to 124.1001.)

SBA Mentor-Protégé Program

The SBA Mentor-Protégé program helps eligible small businesses compete for government contracts by partnering with more experienced companies. Mentor companies are expected to provide insight into and assistance with obtaining government contracts by providing:

- Guidance on:
 - internal business management systems;
 - accounting;
 - marketing;
 - manufacturing; and
 - strategic planning.
- Financial assistance, including, when appropriate:
 - equity investment;
 - loans; and
 - bonding.
- Assistance with:
 - the bidding process;
 - successful contract acquisition; and
 - the federal procurement process.
- Education about:
 - international trade;
 - strategic planning; and

- identifying markets for the protégé's products or services.
- Guidance on business development, including:
 - strategy; and
 - identifying contracting and partnership opportunities.
- General and administrative assistance, with services like:
 - human resource sharing; or
 - security clearance support.

If a mentor- protégé agreement is approved by the SBA, a joint venture between a mentor and protégé can apply for small business set-aside government contracts provided at least 40% of the work is performed by the protégé. (13 C.F.R. §§ 125.8 and 125.9.)

7(j) Management and Technical Assistance Program

The SBA provides free courses, training, and consulting services to small businesses covering:

- Accounting.
- Marketing.
- Strategic and operational planning.
- Financial analysis.
- Business development.
- Contract management.
- Compliance.
- Use of business software.

Eligibility for this training requires that the small business be one of the following:

- Located in an area of:
 - high unemployment; or
 - low income.
- Owned by low-income individuals.
- Certified as:
 - an 8(a) participant;
 - a HUBZone small business; or
 - an EDWOSB.

(15 U.S.C. § 636(j).)

Additional information about this program is available at [SBA: 7\(j\) Management & Technical Assistance program](#).

HUBZone Program

The HUBZone program provides contracting assistance to qualified participants to compete for the three percent (in contracting dollars) of federal prime contracts that are set aside for businesses located in historically underutilized business zones.

To qualify for the HUBZone program, an applicant must:

- Be a small business (see [Qualifying and Registering for Federal Government Contracts](#)).
- Be at least 51% owned and controlled by:
 - US citizens;
 - a Community Development Corporation (a corporation that has received financial assistance under Part 1 of Subchapter A of the Community Economic Development Act of 1981, 42 U.S.C. §§ 9805 to 9808);
 - an agricultural cooperative;
 - a Native Hawaiian organization (a community service not-for-profit organization controlled by native Hawaiians and serving native Hawaiians in Hawaii); or
 - an Indian tribe.
- Have its principal office located in a HUBZone (see [SBA: HUBZone Map](#)).
- Have at least 35% of its employees living in a HUBZone.

(13 C.F.R. §§ 126.100 to 126.900.)

Natural Resource Sales Assistance Program (NRSAP)

The SBA works with federal agencies to help small businesses get a fair share of government property sales and leases by setting aside or giving preference on a portion of sales to small businesses.

The NRSAP covers:

- Timber and related forest products.
- Strategic materials.
- Royalty oil.
- Leases involving rights to:
 - minerals;
 - coal;
 - oil; and
 - gas.
- Surplus real and personal property.

For a more detailed description of SBA's business contracting opportunities, see [Practice Note, Government Contracts: Small Business Concerns](#).

About Practical Law

Practical Law provides legal know-how that gives lawyers a better starting point. Our expert team of attorney editors creates and maintains thousands of up-to-date, practical resources across all major practice areas. We go beyond primary law and traditional legal research to give you the resources needed to practice more efficiently, improve client service and add more value.

If you are not currently a subscriber, we invite you to take a trial of our online services at legalsolutions.com/practical-law. For more information or to schedule training, call 1-800-733-2889 or e-mail referenceattorneys@tr.com.