

# UC San Francisco Supplier Diversity Basics

---

Module 1: Policy and Regulatory  
Requirements





# Supplier Diversity Basics Curriculum

## For UC San Francisco Employees

What you need to know:

- [Module 1: Policy and Regulatory Requirements](#)
- Module 2: Campus Responsibilities
- Module 3: Federal and State of California Reporting



## Module 1 Learning Objectives

At the end of this module, you will have:

- Reviewed the Federal Acquisition Regulations which apply to UC federally funded contract agreements exceeding the federal threshold.
- Read the Environmental Protection Agency Minority and Women Business Utilization Requirements
- Reviewed the sections of Business Finance Bulletin 43 (BFB-BUS-43) Materiel Management which apply to supporting small and diverse businesses.



# Federal Acquisition Regulations (FARS)

## Subpart 19.7 – The Small Business Subcontracting Program

Read all sections of this subpart. They describe the requirements for maintaining procedures with which any institution receiving federal funding must comply. They are also cited in BFB-BUS-43.

- 19.701 Definitions
- 19.702 Statutory requirements (including payment to small businesses within 90 days)
- 19.704 Subcontracting plan requirements
- 19.705 Responsibilities of the contracting officer under the subcontracting assistance program



## Federal Acquisition Regulations (FARS) (cont'd)

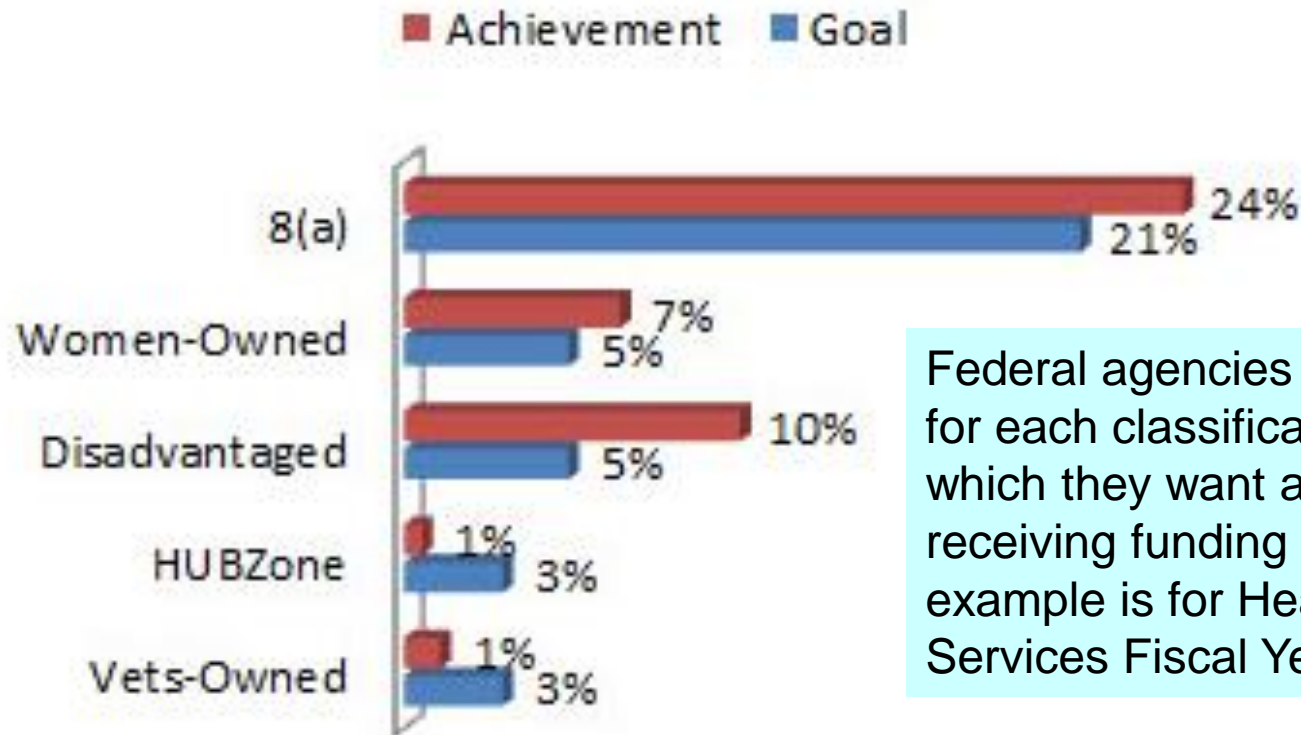
### FARS Subpart 19.7 classification types for small businesses

- Small Business Enterprise (SBE) (other than the categories below)
- Small Disadvantaged Business (SDB)
- Woman-Owned Small Business (WOSB)
- Historically Black Colleges and Universities (and Minority Institutions) (HBCU/MI)
- HUB ZONE Small Business (HUBZone)
- Veteran-Owned Small Business (VOSB)
- Service-Disabled Veteran-Owned Small Business (SDVOSB)
- Alaska Native Corporations and Indian Tribes that have not been certified by the Small Business Administration (SBA) as small disadvantaged business (ANC)
- Alaska Native Corporations and Indian Tribes that are not small businesses (ANC)



# Federal Agency Small Business Goals

## Small Business Acquisition Goals (2013)



Federal agencies set annual goals for each classification type with which they want any institution receiving funding to comply. This example is for Health & Human Services Fiscal Year 2013.



## HHS FY 2015 Small Business Goals

Small Business Categories	Acronym	%
Small Business in general (includes categories below)	SB	33%
Small Disadvantaged Business (including 8(a) Program Participants, Alaska Native Corporations (ANC) & Indian Tribes)	SDB	5%
Women-Owned Small Business & Economically Disadvantaged Women-Owned Small Business	WOSB	5%
Historically Underutilized Business Zone	HUBZone	3%
Veteran-Owned Small Business	VOSB	3%
Service-Disabled Veteran-Owned Small Business	SDVOSB	3%



## Federal Acquisition Regulations (FARS) (cont'd)

### FAR Subpart 52.219-9 Small Business Subcontracting Plan

Includes:

- Definitions of terms
- Required plan details – articulated in the Master Plan Notice on the [Supplier Diversity Federal Requirements webpage](#).
- Reporting Requirements in the federal Electronic Subcontracting Reporting System (eSRS): Semi-annual and annual reports – see the Supplier Diversity webpage noted in the second bullet above for an explanation of periods to be reported and report deadlines.
- Types of reports:
  - Individual Subcontracting Report (ISR)
  - Summary Subcontracting Report (SSR)





## Defense Federal Acquisition Regulations (DFARS)

- The Defense Acquisition Regulations System (DFARS) develops and maintains acquisition rules and guidance to assist purchasing staff as they acquire the goods and services required by the Department of Defense (DoD)
- These regulations apply to all federal contracts awarded by DoD to University Principal Investigators.
- Refer to [Parts 201 – 253](#) for the DFARS regulation content



## What does “Good Faith” mean?

### GOOD FAITH

- To make progress toward achieving the small business goals set in the Small Business Subcontracting Plan which the awarding organization has accepted
- Document/document/document! To maintain documentation and notify funding organization if procurement from a small business for which goals were set in the Small Business Subcontracting Plan does not occur – cited in FAR 19.7
- The next slides describe the possibility of having to pay liquidated damages if the subcontracting goals are not met at completion of the agreement



## Liquidated Damages

FARS reads: ‘ “Failure to make a good faith effort to comply with the subcontracting plan” means willful or intentional failure to perform in accordance with the requirements of the subcontracting plan, or willful or intentional action to frustrate the plan’

### **FAR 19.705-7 Liquidated damages**

Damages could possibly be an amount equal to the actual dollar amount by which the contractor failed to achieve each subcontracting goal.

At completion of the basic contract or any option, if project has failed to meet its subcontracting goals:

- 1) The contracting officer shall review all available information for an indication that the contractor has not made a good faith effort to comply with the plan. If no such indication is found, the contracting officer shall document the file accordingly or



## Liquidated Damages (cont'd)

- 2) If the contracting officer decides...that the contractor failed to make a good faith effort to comply with its subcontracting plan:
  - Sends written notice specifying the failure requesting a response within 15 working days (or longer as necessary)
  - Advises the contractor of the possibility that the contractor may have to pay liquidated damages

### **Contractor must:**

Demonstrate what good faith efforts have been made before the contracting officer issues the final decision

In making a decision, contracting officer must look to the totality of the contractor's actions, consistent with the information and assurances provided in its plan.

The fact that the contractor failed to meet its subcontracting goals does not, in and of itself, constitute a failure to make a good faith effort. For more information, see FAR 19.705-5.



# EPA - 40 CFR: Protection of the Environment

## Part 33: PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PROGRAMS

Fair Share Goals for procurement of goods and services from:

- Minority Business Enterprise (MBE)
- Women Business Enterprise (WBE)



Applies to Environmental Protection Agency (EPA) Federal Grants, Cooperative Agreements, and Interagency Agreements.

<http://www.epa.gov/lawsregs/search/40cfr.html>

***Important note:*** These regulations do not require a Small Business Subcontracting Plan. ***However, in certain cases, the institution receiving the funding, must report MBE/WBE utilization on an annual or semi-annual basis.*** Fair share goals are not quotas. Reporting will be addressed in more detail in Module 2.

For more information, see: [http://www.epa.gov/osbp/dbe\\_overview.htm](http://www.epa.gov/osbp/dbe_overview.htm)



# State of CA Public Contract Code

## CHAPTER 2.1. UNIVERSITY OF CALIFORNIA COMPETITIVE BIDDING

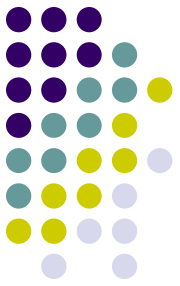
- Article 2. Materials, Goods, and Services [10507.5-10510](#)
- Article 2.5. Contracts with Private Architects, Engineering, Environmental, Land Surveying, and Construction Project Management Firms [10510.4-10510.9](#)
- Article 3. Real Property [10511-10513](#)
- Article 4. Conflict of Interest [10515-10518](#)
- Article 5. Remedies and Penalties [10520-1](#)



## State of CA Diverse Classifications

Spend with the following types of businesses is reported for each of procurement, design, and construction. We recommend that businesses self-certify when appropriate on their databases.

- [Small Business Enterprise \(SBE\)](#)
- [Women Business Enterprise \(WBE\)](#)
- [Disadvantaged Business Enterprise \(DBE\)](#) – managed by the California Department of Transportation (when federal Department of Transportation funds are received)
- [Disabled Veteran Business Enterprise \(DVBE\)](#)



## UC Systemwide Policy

[BFB-BUS-43](#) is divided into sections which address procurement policy, compliance, responsibilities, and procedures.

- I. Policy Summary**
- II. Definitions**
- III. Policy Text**
- IV. Compliance/Responsibilities**
- V. Procedures/Campus Programs**

**Sections III and V** include a Part 3 “SUPPLIER DIVERSITY AND FEDERAL PLANNING AND REPORTING.” The following slides explain the specific sections you need to read.





## **BFB-BUS-43** (continued)

### **III. Policy Text – Read PART 3: SUPPLIER DIVERSITY AND FEDERAL PLANNING AND REPORTING**

Note in the following extracts that the University has committed to supporting procurement from diverse businesses:

#### **B. Policy, item 2:**

“The University recognizes that it has a responsibility to provide procurement opportunities to a diverse supplier pool...”

#### **B Policy, Item 3:**

“The University seeks to dedicate an appropriate portion of the University’s business to small, diverse and disadvantaged businesses through outreach programs and supplier fairs...”



## **BFB-BUS-43** (continued)

**V. Procedures** – Please read PART 3: SUPPLIER DIVERSITY AND FEDERAL PLANNING AND REPORTING which includes:

**A. Campus Programs** – addresses:

- How a supplier diversity program needs to be supported
- The type of outreach efforts to be integrated into a program.
- The need to obtain written representation of suppliers' federal and state classifications.

*And on the following slide, item B.*



## **BFB-BUS-43** (continued)

### **V. Procedures**

#### **B. Campus Reporting/Management of Plans and Reporting...** details the requirements for:

- Creation of Small Business Subcontracting Plans
- Demonstration of good faith efforts to find small, diverse businesses
- Post award small business program re-representation
- Data collection and reporting requirements

# Campus Resources on Supplier Diversity Policy & Procedures



- [UCSF Supplier Diversity Program webpages](#) within the Do Business with **UCSF** website.



## Small Business Subcontracting Plans - UCSF

Between UC Berkeley and UC San Francisco, Principal Investigators are making progress toward the goals for more than 40 plans. These plans have been approved by a variety of agencies:

- Army Corps of Engineers
- Department of Energy (DOE)
- Department of Defense (DoD)
- National Aeronautics and Space Agency (NASA)
- National Institute of Health: among them - National Institute of Allergy and Infectious Disease (NIAID), National Institute of Child Health and Human Development (NICHD), National Institute on Drug Abuse (NIDA), and others.

# How the University Handles Federal Contracts & Subcontracts



The University can be awarded funding and be required to submit a Small Business Subcontracting Plan in one of several ways:

1. A federal agency directly awards a prime contract to the University. That agency requires a Small Business Subcontracting Plan be submitted to the agency, either as part of the initial proposal package or after the award agreement has been initiated.
2. If the University is the prime contractor, as in item 1 above, and in its proposal, includes subcontracts to other institutions (called flow down as required by FARS 52.219-9), it must also obtain and approve Small Business Contracting Plans from any such institutions.

## How the University Handles Federal Contracts & Subcontracts (cont'd)



3. Another institution or company is a prime contractor to a federal agency and awards a subcontract exceeding \$700,000 to the University. UCSF must submit and have a Small Business Subcontracting Plan approved, before an award agreement can be finalized between the University and the prime contract institution or company.
4. A subcontractor as described in item 2 above, can also subcontract with the University, requiring the University to submit a Small Business Subcontracting Plan, before an agreement is signed.



## Federal Vendor Certifications

In order for PIs and their project staff to purchase from small and diverse businesses, those businesses must be self-certified or specifically certified as follows:

Small businesses having classification types, except for 8(a) and HUB Zone, can self-certify by registering online at the [System for Award Management](#) (SAM) website.

SBA requires that the following businesses participate in a formal certification process

- 8(a) emerging businesses
- HUB Zone businesses

EPA can also conduct a certification process for any other businesses which have not self-certified on SAM.





## Quick Assessment: Module 1

- **What have you learned?**

Answer the questions on the following slides to assess the knowledge you have acquired

- **Remember to bookmark the regulatory websites**



## Module 1 Question 1

1. Federal contracts/subcontracts exceeding \_\_\_\_\_ require the development of a Small Business Subcontracting Plan.
  - a. \$600,000
  - b. \$750,000
  - c. \$700,000
  - d. Dollar amount depends on the type of federal contract



## Module 2: Question 1 - Correct Answer

The correct answer is **c. \$700,000**

Refer to the Federal Acquisition Regulations (FARS), [Part 19 – Small Business Program](#)



## Module 1 Question 2

2. Business Finance Bulletin \_\_\_\_\_ provides a policy foundation for the promoting and support of small and diverse businesses
- a. BUS-34
  - b. BUS-39
  - c. BUS-43
  - d. None of the above



## Module 1 Question 2 - Correct Answer

The correct answer is **c. BFB-BUS-43**

The equal rights standard and policy/procedural support of small and diverse businesses is described in this document. If you have not read through it, please do so before proceeding.



## Module 1 Question 3

3. EPA Grants require the submission of a Small Business Subcontracting Plan before the grant can be awarded.
  - a. True
  - b. False



## Module 1: Question 3 - Correct Answer

The correct answer is **b. False.**

See slide 10. The Environmental Protection Agency does not require any type of small business subcontracting plan. However, “Fair Share Goals or Objectives” are set by the EPA in each agreement it signs with a University of California campus department:

Refer to Part 33 of 40 CFR: Protection of the Environment  
[http://www.epa.gov/osbp/dbe\\_overview.htm](http://www.epa.gov/osbp/dbe_overview.htm)



## Module 1 Question 4

4. All federal contracts awarded by DoD are supported by what regulations?
- a. DFARS
  - b. FARS
  - c. a and b
  - d. PGI
  - e. All of the above





## Module 1: Question 4 - Correct Answer

The correct answer is **c. a and b**

FARS is the primary source for federal acquisition regulations.

DFARS include acquisition rules and guidance are specific for acquiring goods and services required by the Department of Defense (DoD).

<http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>



## Module 1 Question 5

5. Which agency requires 8(a) and HUBZone Small Businesses to be certified in the System for Award Management (SAM) prior to use?
- a. DoD
  - b. NIH
  - c. EPA
  - d. All of the above



## Module 1 Question 5 - Correct Answer

The correct answer is **d. All of the above**

8(a) and HUBZone businesses are the only small businesses which must go through a formal certification process with the Small Business Administration (SBA) to qualify as a small business with any of the agencies listed as well as any other federal agency.



## Module 1 Question 6

6. Where can you find information about Small Business Subcontracting Plans?
  - a. BFB-BUS-43
  - b. UCSF Supplier Diversity Program webpages
  - c. FARS Subpart 19.2
  - d. FARS Subpart 19.7 and 52.219-1
  - e. a, b, and d above



## Module 1 Question 6 - Correct Answer

The correct answer is **e. a, b, and d**

Please go back and review the slides that address each of these references, if you missed any of them.



## Review of Module 1 Learning Objectives

You have now:

- Reviewed the Federal Acquisition Regulations which apply to UC federally funded contract agreements exceeding the federal threshold.
- Read the Environmental Protection Agency Minority and Women Business Utilization Requirements
- Reviewed the sections of Business Finance Bulletin 43 (BFB-BUS-43) Materiel Management which apply to supporting small and diverse businesses.

Refer to these policy and regulatory resources whenever a project is receiving federal or State of CA funding.

Remember that UCSF has more website information as cited in this session.