

CALIFORNIA DISABLED VETERAN BUSINESS ENTERPRISE (DVBE)**PROGRAM REQUIREMENTS**

(Revision Date 1-2022)

PLEASE READ THE REQUIREMENTS AND INSTRUCTIONS CAREFULLY BEFORE YOU BEGIN.

AUTHORITY

The Disabled Veteran Business Enterprise (DVBE) Participation Goal Program for State contracts is established in Public Contract Code (PCC), §10115 et seq., Military and Veterans Code (MVC), §999 et seq., and California Code of Regulations (CCR), Title 2, §1896.61 et seq.

DVBE PARTICIPATION

The minimum percentage of DVBE participation is **3%** for this solicitation *unless* another percentage is specified in the solicitation, or the solicitation is exempt from DVBE participation.

DVBE INCENTIVE

An incentive will be given to bidders who provide DVBE participation, *unless* stated elsewhere in the solicitation the DVBE Incentive has been exempted.

INTRODUCTION

The bidder must complete the identified form(s) and fully document that the mandatory minimum percent of DVBE participation will be met in order to comply with this solicitation's DVBE program requirement or the bid may be considered non-responsive.

Information submitted by the Bidder to comply with this solicitation's DVBE requirements will be verified by the State. If evidence of an alleged violation is found during the verification process, the State shall initiate an investigation, in accordance with the requirements of PCC §10115, et seq., and MVC §999 et seq., and follow the investigatory procedures required by 2 CCR §1896.91. Contractors found to be in violation of these provisions may be subject to suspension from doing business with the State of California, contract termination, civil penalties, and loss of State certifications.

Only State of California, Office of Small Business and DVBE Services (OSDS), certified Disabled Veteran Business Enterprises (hereafter called "DVBE") who will perform a commercially useful function (CUF) shall be used to satisfy the DVBE requirements. The term "DVBE contractor, subcontractor or supplier" means any person or entity that satisfies the ownership (or management) and control requirements of 2 CCR §1896.81, is certified in accordance with 2 CCR §1896.84, and provides services or goods that contribute to the fulfillment of the contract requirements by performing a commercially useful function as required in MVC §999(B). A certification signed under penalty perjury that the work performed by DVBE subcontractors serves a CUF is required from the bidder per MVC §999.10(a)(3). Bidders must also verify each DVBE subcontractor's certification status with OSDS to ensure DVBE participation eligibility prior to submitting bids. A DVBE that is not certified at the time of award or does not meet and maintain certification cannot count towards an awarding department's 3-percent goal. {MVC §999.5(c)}

COMMERCIALLY USEFUL FUNCTION DEFINITION

As defined in MVC §999(B), a person or an entity is deemed to perform a "commercially useful function" if a person or entity does all of the following:

- Is responsible for the execution of a distinct element of the work of the contract.
- Carries out the obligation by actually performing, managing, or supervising the work involved.
- Performs work that is normal for its business services and functions.
- Is responsible, with respect to products, inventories, materials, and supplies required for the contract, for negotiating price, determining quality and quantity, ordering, installing, if applicable, and making payment.
- Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

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A contractor, subcontractor, or supplier will not be considered to perform a "commercially useful function" if the contractor's, subcontractor's, or supplier's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of disabled veteran business enterprise participation.

DVBE SUBSTITUTION

Bidders must use the DVBE subcontractors or suppliers proposed in the bid. Any substitutions must be requested in writing to the awarding department and approved by both the awarding department and OSDS in writing prior to the commencement of any work by the proposed DVBE. The substitution must be to perform the same work and shall maintain the minimum level of DVBE participation stated in original bid. {MVC §999.5(g)}

DVBE SUBCONTRACTOR REPORTING

Bidders awarded a contract with a commitment to use DVBE subcontractors must certify, upon completion of contract, that all payments have been made to the DVBE subcontractors by submitting the Prime Contractor's - DVBE Subcontracting Report (STD 817). For such contracts awarded on or after January 1, 2021, the department will withhold \$10,000 from the final payment, or the full payment if the final payment is less than \$10,000 from prime contractors, until the complete and accurate STD 817 is received. Failure to submit this certification after given the opportunity to cure, will result in the department permanently deducting \$10,000 from the final payment or the full payment if less than \$10,000. {MVC §999.7}

Prime contractor shall provide proof of payments made to DVBE subcontractors at the request of the department. The department shall keep all information provided by the prime contractor regarding the DVBE program requirements in the procurement file for six years. {MVC §999.55}

PLEASE READ ALL INSTRUCTIONS CAREFULLY

These instructions contain information about the DVBE program requirements, bidder responsibilities, and the DVBE Bid Incentive. Bidders are responsible for thorough review and compliance with these instructions.

To meet the DVBE program requirements, bidders must complete and fully document compliance with the following:

PARTICIPATION COMMITMENT

Bidders must commit to meet or exceed the DVBE participation requirement in this solicitation by either Method A1 (bidder is a California certified DVBE) or A2 (bidder is not a California certified DVBE). Bidders must document DVBE participation commitment by completing and submitting all forms and documentation necessary to support meeting CUF. Forms include the Bidder Declaration (DGS PD-05-105) and (DGS PD 843) DVBE Declarations located elsewhere in the solicitation, the Confirmation Letter/Form and Certification of CUF Compliance (MVC 999.10(a)(3)) as described below, and any other requested documentation. Failure to complete and submit the required form(s) as instructed will render the bid non-responsive.

METHOD A1. CERTIFIED DVBE BIDDER:

- a. Commit to perform the participation goal percentage of the contract bid amount with its own resources or in combination with another DVBE(s).
- b. Document DVBE participation on the Bidder Declaration DGS PD-05-105 for the Prime and all subcontractors (any person, firm, corporation that will participate in fulfilling any part of the contract.).
- c. Submit a signed certification under penalty of perjury that the work performed by each DVBE subcontractor listed on the contract is CUF compliant.
- d. Submit a written Confirmation Letter/Form from each DVBE subcontractor identified on the Bidder

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Declaration. The written confirmation must include the solicitation number and be signed by the Bidder and the DVBE subcontractor(s). The written confirmation shall include, but is not limited to, the DVBE scope of work, work to be performed by the DVBE, term of intended subcontract with the DVBE, anticipated dates the DVBE will perform required work, rate and conditions of payment and total amount to be paid to the DVBE. Failure to submit signed confirmations with the bid may render the bid non-responsive. If further verification is necessary, the State will obtain additional information to verify compliance with the above requirements.

- e. DGS PD 843 DVBE Declarations form for all DVBE participants (prime or sub).

METHOD A2. NON-DVBE BIDDER:

- a. Commit to using DVBE(s) to perform the participation goal percentage of the contract bid amount.
- b. Document DVBE participation on the Bidder Declaration DGS PD-05-105.
- c. Submit a signed certification under penalty of perjury that the work performed by each DVBE subcontractor listed on the contract is CUF compliant.
- d. Submit a written Confirmation Letter/form from each DVBE subcontractor identified on the Bidder Declaration. The written confirmation must include the solicitation number and be signed by the Bidder and the DVBE subcontractor(s). The written confirmation shall include, but is not limited to, the DVBE scope of work, work to be performed by the DVBE, term of intended subcontract with the DVBE, anticipated dates the DVBE will perform required work, rate and conditions of payment and total amount to be paid to the DVBE. Failure to submit signed confirmations with the bid may render the bid non-responsive. If further verification is necessary, the State will obtain additional information to verify compliance with the above requirements.
- e. DGS PD 843 DVBE Declarations form for all DVBE participants (prime or sub).

DVBE BID INCENTIVE

Unless stated elsewhere in the solicitation that the DVBE incentive has been waived, in accordance with Section 999.5(a) of the Military and Veterans Code an incentive will be given to bidders who provide DVBE participation. For evaluation purposes only, the State shall apply an incentive to bids that propose California certified DVBE participation as identified on the Bidder Declaration DGS PD-05-105, (located elsewhere within the solicitation document) and confirmed by the State. The incentive amount for awards based on low price will vary in conjunction with the percentage of DVBE participation. Unless a table that replaces the one below has been expressly established elsewhere within the solicitation, the following percentages will apply for awards based on low price.

Confirmed DVBE Participation of:	DVBE Incentive:
5% or Over	5%
4% to 4.99% inclusive	4%
3% to 3.99% inclusive	3%

As applicable: (1) Awards based on low price - the net bid price of responsive bids will be reduced (for evaluation purposes only) by the amount of DVBE incentive as applied to the lowest responsive net bid price. If the #1 ranked responsive, responsible bid is a California certified small business, the only bidders eligible for the incentive will be California certified small businesses. The incentive adjustment for awards based on low price cannot exceed 5% or \$100,000, whichever is less, of the #1 ranked net bid price. When used in combination with a preference adjustment, the cumulative adjustment amount cannot exceed \$100,000.

(2) Awards based on highest score - the solicitation shall include an individual requirement that identifies incentive points for DVBE participation.

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RESOURCES AND INFORMATION TO LOCATE DVBE SUPPLIERS

AWARDING DEPARTMENT

For questions regarding bid documentation requirements, **contact the contracting official at the awarding department for this solicitation.** The contracting official may be able to provide information regarding any DVBE suppliers who may have identified themselves as potential subcontractors and to obtain suggestions for search criteria to possibly identify DVBE suppliers for the solicitation. These referral organizations provide services for a fee. To obtain a list of referral organizations, please select:

- ☐ [DVBE Focus-Trade Paper Listing](#) ☐ [DVBE Referral Organizations Listing](#)

DGS-PD OFFICE OF SMALL BUSINESS AND DVBE SERVICES (OSDS)

The department's Small Business (SB/DVBE) Advocate can also provide assistance with identifying DVBEs. For a directory of SB/DVBE Advocates for each department go to: [SB/DVBE Advocates Directory](#).

For assistance with this directory, contact Department of General Services, Procurement Division (DGS-PD), Business Outreach Program at Advocate@dgs.ca.gov.

For assistance with SB/DVBE Search, Certification Applications and Information, Certification Information, Certification Status or Concerns and General DVBE Program info you may use any of the following methods:

From 8am - 5pm Monday-Friday: Call OSDS at (916) 375-4940 or visit the Website: [SB/DVBE Certification](#) or E-mail: OSDSHelp@dgs.ca.gov.

DGS PD E-PROCUREMENT

Access the list of all certified DVBEs by using the Department of General Services, Procurement Division (DGS-PD), online certified firm database at www.caleprocure.ca.gov. To begin your search, click on "Quicklinks" and then click on "[Find Certified Firms \(SB/DVBE\)](#)." Search by one "Keyword" or "United Nations Standard Products and Services Code" (UNSPSC) at a time that apply to the elements of work you want to subcontract.

Check for subcontractor ads that may be placed on the California State Contracts Register (CSCR) for this solicitation prior to the closing date. You may access the CSCR at: www.caleprocure.ca.gov then click on Find Public Procurement Information. For questions regarding the CSCR, please call 916-375-2000 or send an email to eprocure@dgs.ca.gov.

For eProcurement Training Modules including the Small Business SB/DVBE Search, click on "Help" then on the question "Is training available?" and then click Access Training.

FEDERAL

Search the U.S. Small Business Administration's (SBA) System For Award Management (www.SAM.gov) on-line database to identify potential DVBEs. First time users should click on the "Search" for detailed instructions. Remember to verify each firm's status as a *California* certified DVBE.