

Statewide SB/DVBE Advocate Tool Kit

SB/DVBE Program Policy

Chapter III



February 2012

CHAPTER III PROGRAM POLICY AND POLICY STATEMENTS

SB/DVBE Program Policy

Each state agency and department with expenditures over \$100,000 is required to appoint a person within their organization to serve as a Small Business and Disabled Veteran Business Enterprise (SB/DVBE) Advocate.

As the SB/DVBE Advocate, you should ensure that your organization creates set SB/DVBE program policies and that these policies are disseminated throughout procurement and contract staff, and mid and upper management staff and other staff responsible for any aspect of procuring goods or services. Policy sets the bar for expected practices and places expectations that department staff will adhere to and support department policy.

Additionally, a policy statement memorandum should be issued from the highest executive level of the organization affirming their commitment to the SB/DVBE Programs. This is vital because it communicates the department's intention, from the highest level, to meet SB and DVBE program goals. As the agency or department Advocate, you should ensure that your policy statement is included in your agency or department's administrative/acquisition manual and be made easily accessible through your department's website.

Expressing policy can be made with a sweeping statement of overall program support or it can address specific SB/DVBE program elements. Whatever it is, the policy statement should be applicable to your organization or department and should convey the objectives of your organization. And, to be effective, and as a "best practice", the policy statement should be disseminated under a cover memorandum signed by the Agency Secretary or Department Director.

Finally, the policy should be distributed to executive and mid-management as well as all pertinent contracting and procurement staff within your organization.

As you craft new policy or update existing policy, think about how your department will express support for the following:

- SB Program overall
- DVBE Program overall
- DVBE program waivers or exemptions
- DVBE Incentive
- Use of the SB or DVBE Option
- Commercially Useful Function
- Prompt Payment

Depending upon how well your department performs, policy can express overall goals and support of these goals or it can be tailored to include those goals with focus on specific practices. Following are examples of various department policies. Some reflect past program needs and practices while others provide more up-to-date policy. The intent is to give you a variety of policy examples from which to draw.

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WE HAVE INCLUDED THE FOLLOWING EXAMPLE POLICY STATEMENTS -

[FRANCHISE TAX BOARD](#)

[CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS](#)

[DEPARTMENT OF WATER RESOURCES](#)

[CALIFORNIA ENERGY COMMISSION](#)

[CALIFORNIA HIGHWAY PATROL](#)

[CALIFORNIA DEPARTMENT OF MOTOR VEHICLES](#)

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FRANCHISE TAXBOARD

chair **John Chiang**
member **Jerome E. Horton**
member **Ana J. Matosantos**



02.03.2011

To: Procurement and Asset Management Bureau

From: Susan Borgman

Updated Franchise Tax Board's Small and Micro Businesses and Disabled Veteran-Owned Business Enterprise First Policy and DVBE Program Requirement

Memorandum

FIRST POLICY:

As the Franchise Tax Board's Procurement and Contracting Officer (PCO), I am committed to offering procurement opportunities to Small Businesses (SB) including Micro-businesses (MB) and Disabled Veteran Business-owned Enterprises (DVBE) whenever possible. This policy applies to all purchases under \$250,000.00 including purchase orders, contracts, and Cal-Card purchases. To ensure that FTB meets the annual statewide participation goal of 25% to SBs including MBs (mandated through Executive Order S-02-06) and 3% to DVBEs (Military and Veteran Code section 999.2 et seq.), the following is required of all procurement staff:

- Procurements from \$5,000.01 to less than \$250,000.00 – Must be conducted utilizing the SB/DVBE procurement option. Procurements exempt from this requirement are:
 - ✓ Where there are no SB/MB and/or DVBE vendors available;
 - ✓ Mandatory statewide contracts where there is no SB/DVBE Off-Ramp; or
 - ✓ Mandatory statewide contracts that have been awarded to a certified SB, MB, or DVBE.
- Procurements Under \$5,000.00 – Use the Fair and Reasonable (F&R) procurement method to award orders to SBs, MBs and DVBEs. The criteria described in the State Contracting Manuals, Volumes 2 and 3 must be met in order to establish F&R costing.

When using the F&R method to purchase and the analyst can only find one quote for the product or services from an SB/MB/DVBE, obtain pricing from a large business for price comparison. If the SB/MB/DVBE pricing is higher than the large business pricing, bring the matter to your supervisor and/or to one of FTB's SB/DVBE Advocates for discussion. On a case-by-case situation, we must balance the need to meet our SB/DVBE percentage goals and the cost reasonableness of the purchase. If it is determined that cost is a factor and there are no opportunities for any SB/MB/DVBEs, a justification must be written and a waiver must be approved. FTB is following Executive Order S-02-06 by aggressively seeking SB/MB and/or DVBE participation. In addition, please note:

- Non-IT orders under \$100 (SUB) must be awarded to a SB/MB and/or DVBE vendor unless there are no such vendors available.

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- For any proprietary product/service/subscription per SCM 2 Section 5.5.1, or SCM Vol. 3 Topic 5 and 6, or for additional purchases exempt by DGS policy, please inquire with the company if there are any SB or DVBE possibilities.

A waiver is required for every purchase under \$250,000.00 that will not be awarded to a SB/MB and/or DVBE. The waiver must clearly describe the steps taken and research conducted providing the justification for not awarding to an SB/MB and/or DVBE. FTB’s SB/DVBE Advocate(s) will approve and sign off on all waivers. However, if they are not available, Yvonne Olson, Cathy Lorenzo, Michael Banuelos or I will review/approve the waiver. The template attached below was established for the SB/MB/DVBE Waiver under \$250,000.00. The First Policy Under 250K Waiver template is also available on the Y drive.



First Policy under
250K Waiver Templat

DVBE PARTICIPATION:

The DVBE program participation requirements are separate from the First Policy requirements mentioned above. The DVBE participation requirement applies to all competitive solicitations regardless of the solicitation format (e.g., RFQ, IFB, RFP) or dollar value. FTB must follow the already-established DVBE participation guidelines. *Please keep in mind it is the analyst’s responsibility to evaluate potential DVBE participation on a case-by-case basis, as each procurement is unique.* In some situations, you could require more or less than the 3% participation that is part of the DVBE participation requirements. The DVBE Incentive is also a requirement. Complete the DGS DVBE Program Requirements and DVBE Incentive Waiver form, GSPD-07-04 and the DVBE Waiver Justification attached below to obtain approval by the SB/DVBE Advocate. The DVBE Waiver Justification template is also available on the Y drive.



DVBE Waiver
Justification(TEMPLA1

TYPE OF PROCUREMENT	DVBE REQUIREMENT
NCBs (Both IT and Non-IT)	Consider participation, document effort
LPAs (Both IT and Non-IT)	Review individual user instructions
Competitive Bids (Non-IT) \$100,000 and over	DVBE participation required
Competitive Bids (IT) \$100,000 and over	DVBE participation required
Competitive Bids (Non-IT) \$100,000 and under	Consider participation, document effort
Competitive Bids (IT) \$100,000 and under	Consider participation, document effort

A separate waiver with justification must be submitted for approval to waive the DVBE participation requirement and/or the DVBE Incentive.

Please refer to Chapter 8 of the Non-IT Goods Desk Manual or Chapter 8 of the IT Desk Manual for further procedures on this subject.

If you have any questions, please contact Tracie Zamora or John Bajar, FTB’s SB/DVBE Advocates.

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FTB First Policy Waiver Under \$250K

Date:	
Purchase Order/Contract Number:	
Procurement Analyst:	
Description of Contract/Order	
Amount of Contract/Order	
Term of Purchase Order/Contract (if applicable)	
Awarded Contractor:	

**Summarize steps taken to include SB/DVBE participation.
This justification should include but is not limited to the following:**

Perform a firm search via the DGS OSDS Website:
<https://www.apps.dgs.ca.gov/OSDCSearch/OSDCSearch.aspx>

Ask OEM for SB/DVBE resellers.

If OEM does not have existing SB/DVBE resellers, provide OEM with SB/DVBE reseller information allowing SB/DVBE solicitation participation.

If working with a vendor that is not a certified SB/DVBE, engage the vendor! Help educate them on eligibility requirements as their company may qualify and in most cases be certified in one day:
<http://www.pd.dgs.ca.gov/smbus/sbcert.htm>
<http://www.pd.dgs.ca.gov/smbus/dvbecert.htm>

Engage SB/DVBE Advocate for additional assistance.

Justification:

Signature
FTB SB/DVBE Advocate

Date

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**Department of Consumer Affairs
DEPARTMENTAL POLICY**

TITLE	Small Business and Disabled Veteran Business Enterprises		
POLICY OWNER	Office of Administrative Services – Business Services Office		
POLICY NUMBER	BSO 02-11	SUPERSEDES	BSO 02-02& DPM BSO 02-02
ISSUE DATE	07/01/2011	EFFECTIVE	Immediately
DISTRIBUTED TO	Board Executive Officers, Division/Bureau/Program Chiefs, Deputy Directors, Executive Staff		
ORIGINAL APPROVED BY	Brian Stiger, Director Department of Consumer Affairs		
PAGE	1 of 3	ATTACHMENT	None

PURPOSE

This policy updates the Department of Consumer Affairs (DCA) policy for achieving the Small Business (SB) and Disabled Veteran Business Enterprise (DVBE) participation goals mandated in State procurement and contract awards.

This policy identifies:

- The role of the SB/DVBE Advocate.
- The role of the Business Services Office (BSO).
- The role of all the DCA Boards/Bureaus/Programs/Committees (programs).
- Tools and requirements related to the SB/DVBE program.

POLICY

The DCA is committed to giving first consideration in all procurement and contract opportunities to California (CA) certified DVBE vendors in order to meet the mandated 3% DVBE annual participation goals, and second consideration to CA certified SB vendors in order to meet the 25% SB annual participation goals. Successful attainment of these goals is contingent upon the collaborative efforts of all programs. Consequently all programs are responsible for planning their procurement and contract awards to ensure that the participation goals are achieved by the end of each fiscal year.

APPLICABILITY

This policy applies to all programs’ procurement and contracting staff, managers, supervisors, Executive Officers, Bureau/Program/Division Chiefs, and Deputy Directors.

AUTHORITY

- Government Code, sections 14837-14838&14845-14847
- Public Contract Code, section 10115
- State Contracting Manual Volumes I, II, & III
- Military and Veterans Code 999

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PROVISIONS

The SB/DVBE program is the DCA's effort to assist SB/DVBE vendors by giving them first consideration in procurement and contract opportunities, participating in outreach events, providing resource guidance, and supporting the businesses through advocacy.

The DCA is responsible for meeting a minimum of 25% SB participation and 3% DVBE participation in its annual procurement and contract activity. To meet these requirements, Government Code 14845-14847 mandates that "each agency shall consolidate its existing staff functions that relate to contract opportunities for small business into a single point of contact for small businesses and designate a small business advocate as a liaison to small business suppliers."

Role of the SB/DVBE Advocate/Liaison

The SB/DVBE Advocate administers the DCA SB/DVBE program to ensure that annual procurement and contract activity meets or exceeds SB/DVBE participation goals. The SB/DVBE Advocate position resides within the DCA Business Services Office (BSO) and responsibilities include but are not limited to:

- Maintaining up-to-date departmental and program statistics regarding the current and previous levels of SB and DVBE participation.
- Preparing an annual SB and DVBE participation report and submitting it to the Department of General Services (DGS).
- Working with programs to achieve the minimum participation requirements by locating SB and/or DVBE vendors to participate in contracts; approving or denying exemption requests as necessary.
- Working with programs to increase SB and DVBE awareness by writing, distributing, and enforcing statewide and departmental policies/memos.
- Working with SB and DVBE vendors to help them identify and pursue business opportunities with DCA, resolve problems or payment issues, and answer any questions they may have.
- Attending outreach events throughout the State of California to network with potential SB and/or DVBE vendors for contracting opportunities.
- Attending local SB and/or DVBE related meetings and training sessions to gather information and updates.
- Providing training for analysts and programs related to their roles and the proper use of the SB/DVBE Option, the SB Preference, the DVBE Incentive, and Commercially Useful Function (CUF).

Role of the BSO

The BSO verifies all procurement and contracts meet the established SB/DVBE program requirements by ensuring:

- All necessary SB and/or DVBE documents are included with the acquisition request.
- All SB/DVBE vendors are providing a CUF.
- The SB/DVBE Option is awarded appropriately.
- The DVBE Incentive and/or SB Preference are applied correctly.
- The programs are aware of their responsibilities related to the SB/DVBE program.

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Role of the Programs

When soliciting for procurement and contracts, the programs give first consideration to DVBE vendors and second consideration to SB vendors. Responsibilities include but are not limited to:

- Locating SB and/or DVBE vendors to provide the goods and/or services required.
- Using the SB/DVBE Option to solicit SB/DVBE participation for goods or services.
- Applying the DVBE Incentive and SB Preference for informal and formal solicitations.
- Contacting the SB/DVBE Advocate for assistance and exemption requests.

REVISIONS

Determination of the need for revision of this policy is the responsibility of the Business Services Office (BSO). Questions about the department's SB/DVBE policy should be directed to the DCA's SB/DVBE Advocate/Liaison. Questions regarding the status or maintenance of this policy should be directed to the Legislative and Policy Division.

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STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR
OFFICE OF ADMINISTRATIVE AND INFORMATION SERVICES
1625 N. Market Blvd., Ste. S-308
Sacramento, CA 95834



MEMORANDUM

DATE	April 1, 2010
TO	Board Executive Officers, Division/Bureau/Program Chiefs, Deputy Directors
FROM	Brian Stiger, Director <i>Brian J. Stiger</i>
SUBJECT	Small Business/Disabled Veteran Business Enterprise Participation Goals – First Consideration

The Department of Consumer Affairs (DCA) is committed to offering procurement opportunities to Small Businesses (SB), Microbusinesses (MB), and Disabled Veteran Business Enterprises (DVBE) whenever possible. We have shown this dedication time and time again by consistently surpassing the mandated minimum participations of 3% DVBE and 25% SB in our contracting activity.

To ensure that DCA continues to be a leader among State departments in supporting California small businesses and our economy, DCA is aggressively seeking SB and DVBE participation by requiring the following:

1. **All Goods and Services under \$5,000** – Award directly to a certified SB, MB, and/or DVBE vendor. Give first consideration to DVBE vendors. Document cost reasonableness.
2. **Goods and Services from \$5,000 to \$250,000** – Obtain two SB or two DVBE quotes and use the SB/DVBE Option (GC §14838.5) to award. Give first consideration to DVBE vendors.
3. **California Strategic Sourcing Initiative (CSSI) Contracts** – Use the SB/DVBE Off-ramp (refer to user instructions for each CSSI contract) to award directly to a certified SB, MB, and/or DVBE vendor. Give first consideration to DVBE vendors.
4. **All Other Acquisitions** – Use SB and/or DVBE vendors whenever possible. Be sure to include DVBE Incentive language to encourage DVBE participation in all contracts (see http://inside.dca.ca.gov/forms/oas/dvbe_incentive.pdf). Only after exhausting all available SB/DVBE resources, should an exemption be considered.

The following agreements are exempt from these requirements: Interagency, government, Joint Power Authorities, PIA, California State University/University of California (or respective campuses), Concessions, Revenue/Reimbursement Contracts, and Statutorily Exempt.

DCA's SB/DVBE Advocate, Kevin Aria, can assist you by providing listings of certified vendors for specific goods/services and helping you research vendor and other related information. Please contact Kevin at 916.574.7268 or by email Kevin_Aria@dca.ca.gov if you need additional assistance.

Thank you for all of your hard work and your continuing dedication to support California small businesses through these challenging times. Working as a team, we can guarantee another great year for DCA in achieving and surpassing the mandated SB/DVBE participation requirements.

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**DEPARTMENT OF WATER RESOURCES
DEPARTMENT ADMINISTRATION MANUAL (DAM)
SMALL BUSINESS/DVBE PROGRAM POLICY**

Small Business (SB)/Disabled Veteran Business Enterprise (DVBE) Preference And Goal Programs 8350
(Rev. Jan/10)

In accordance with statutory and regulatory requirements and good business practice, it is the policy of the Department to place a fair share of its business with small and disabled veteran-owned business enterprises certified by the Department of General Services (DGS) Office of SB and DVBE Services (OSDS). To this end, department employees responsible for purchasing and contracting are expected to make every effort to solicit bids from and make awards to SB and DVBE suppliers and contractors. (Government Code Section 14835)

The Department fully supports SB and DVBE participation in state contracting and purchasing and has put in place a vigorous program. (Government Code Section 14835, Military and Veterans Code Section 999.2)

The SB/DVBE Advocate has been designated with the Procurement and Contracting Office and is responsible for managing the program, including offering outreach and assistance to SB and DVBE firms in gaining certification; providing education, guidelines and strategies to Department staff in meeting the goals; analyzing results and making recommendations for improvement where needed; and preparing and maintaining goal achievement reports, which includes preparation of an Annual SB and/or DVBE Program Improvement Plan if the Department fails to achieve SB/DVBE mandates. (Government Code Section 14846, Military and Veterans Code Section 999.12)

The annual State and Department goals for placing transactions with SB and DVBE are as follows:

- 25 percent with SB enterprises (Government Code Section 14838.1) and
- 3 percent with disabled veteran-owned business enterprises (Military and Veterans Code Section 999(a).)

SB/DVBE (New Jan/10) 8351

SB/DVBE Bid Option (New Jan/10) 8351.1

It is the policy of the Department to promote the use of the SB/DVBE focused bid process known as the SB/DVBE Bid Option and directs that, whenever practical, the Department buyers, contract specialists, and others involved in the procurement of goods and services should use this process. This method permits staff to award contracts greater than \$5,000, but less than \$250,000 for commodities and services and up to \$250,000 for public works projects to certified SB or certified DVBE businesses. In these cases, price quotations must have been obtained from

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either two responsible and responsive certified SB or two DVBE vendors with the resulting award made to a certified SB or DVBE vendor ([Government Code Section 14838.5](#)).

SB/DVBE Reporting (Renum. Jan/10; Rev. Jan/10)

8351.2

It is the Department's policy to comply with all legislative goals and regulatory mandates of the

SB/DVBE program, including the reporting requirements. To ensure monitoring and oversight of the effectiveness of the Department's program, the SB/DVBE advocate shall compile and submit timely reports to the Office of Small and Disabled Services as required. When goals are not reached, the advocate shall identify where improvements may be made, then propose and implement strategies for increased participation. (Military and Veterans Code Section 999.5 b.)

Infrastructure Bond Act of 2006 (New Jan/10)

8351.3

The Department endorses the SB participation goals outlined in legislation dealing with the I-Bond Act of 2006 to ensure that SB share in the opportunities funded by the proceeds of these bonds. The SB/DVBE advocate shall build on and refine the existing outreach program to increase the number of certified SB in contracting and purchasing on bond-funded projects. Department policy also promotes the inclusion of DVBE vendors whenever practicable.

The advocate shall develop and enhance reporting systems to be certain that SB usage is tracked and reported and will design a method for the Department's contract managers to monitor and report compliance with the 25 percent SB mandate outlined in enabling legislation. ([Government Code Section 14838.1 \(a\) \(1\)](#) for the infrastructure bonds.)

DVBE (Rev. May/11)

8352

The State has implemented a program to support DVBE by encouraging their business associations with state agencies. The Department actively endorses this program with the goal of meeting or exceeding the mandated three percent DVBE participation in state purchasing and contracting opportunities. The Department's program includes outreach and education, promotion of partnerships with established contractors, and active monitoring of agency-wide efforts to locate and select DVBE firms wherever feasible. The Department encourages the use of the DVBE focused bid process whenever practical to meet its participation commitment.

Legislation effective July 2009 removed the Good Faith Effort as a bidder means of meeting DVBE requirements. Consequently, bidders must fulfill the three percent commitment, or as otherwise identified in the solicitation, or have their bid rejected.

The Department has the authority to exempt contracts from DVBE requirements when it decides that it is its best interests. This is a formal process which must receive final approval from the Director or designee. (SCM Section 8.12)

The Department may, at its discretion, increase DVBE participation to greater than three

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percent, or when appropriate, may reduce the level of DVBE participation to less than three percent based on analysis of available DVBE services or commodities. In each of the above, approval to increase or reduce DVBE participation must be approved by the Department's Director or designee. (SCM Section 8.10/8.12)

DVBE Program Exemption (Rev. May/11)

8352.1

The Department has the authority to exempt contracts from DVBE requirements when it is in our best interest. (SCM Section 8.10, A-1)

It is the Department's policy to achieve the State's mandated annual three (3) percent DVBE goals overall. However, by the nature of their services, certain contracts do not provide opportunity for DVBE subcontracting and historically the Department has exempted them on a singular basis. Having determined that it is in the best interest of the Department, the following service contracts and procurements are exempt from including DVBE program participation requirements:

1. Non-IT services, construction services, commodities and IT services or goods procured through the Small Business Bid Option (GC 14838.5).
2. Commodities less than \$100,000.
3. Information Technology goods, including software, less than \$1,000,000.
4. Non-IT and IT Service Contracts for less than \$10,000.
5. Contracts for proprietary IT software or hardware maintenance.
6. Contracts for specialized legal services, such as: obtaining expert witness, legal defense, legal advice or legal services by an attorney or an attorney's staff.
7. Contracts to establish, or replace existing or renew board members.
8. Contracts for conference or meeting facilities, including room accommodations for conference attendees.
9. Contracts with State, local or federal agencies.
10. Subvention or local assistance contracts.
11. Contracts with Universities of California (UC), California State Universities (CSU), Community Colleges (CC) and foundations or auxiliary organizations incorporated to support the universities or colleges and joint powers agreements (JPA).
12. Emergency contracts which are necessary for the immediate preservation of life and property.
13. Contracts with a Single consultant, defined as any contract with a single individual hired for expertise and where services provided are based on their unique "education and experience". Does *not* exempt consultant firms where DVBE individuals or firms may be hired as a team member to augment the Department's needed services.
14. Contracts with non-profit entities such as: California Water Education Foundation, the Association of California Water Agencies, and Chambers of Commerce.
15. Contracts for designated contractors that have been previously selected by a federal, State, city, county, or other regulatory entity, usually through a competitive process, to perform a service in a specific geographical area (example: Snow Packers, Original Equipment Manufacturer (OEM) selected maintenance providers).

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- 16. Contracts for equipment maintenance where the equipment is under documented warranty, where there is only one authorized or qualified provider, or where there is only one distributor for parts and services.
- 17. Equipment certification for specialized equipment where service is provided by a single certified expert (example: CAL-OSHA required certification for crane certification).
- 18. Proprietary subscriptions, proprietary publications and/or technical manuals regardless of media format. This includes access to pre-existing proprietary research data through a non-IT services contract.
- 19. Rental of proprietary postage meters if they are interfaced with existing mailing equipment and there is only one authorized manufacturer's branch or qualified dealer representative in a specified geographical area. Exemption only applies to annual meter rental services less than \$100,000.

Wherever practical, Department buyers and contract analysts shall procure services and commodities using the DVBE Bid Option to assist the Department achieve its annual overall DVBE goals.

DWR DVBE exemption policy will be reviewed bi-annually to ensure that policy is consistent with statewide program mandates, procedures and practices.

Commercially Useful Function (CCR Title 2, Section 1896.61 MVC 999 b (5) (B) and GC 14837) 8352.2
(New Dec/10)

Consistent with the policies and regulations established by the Department of General Services, Procurement Division, all awards made to Small Business and DVBE vendors for personal services, IT goods and services, commodities, and construction services must be evaluated and meet the definition of performing a Commercially Useful Function (CUF). To that end, staff conducting solicitations must make a determination of CUF and document the procurement file according to prescribed Department procedures.

DVBE Incentive (Renum. Dec/10) 8352.3

The intent of the DVBE incentive program is to encourage firms to seek and include DVBEs as sub-contractors on their bids. Bidders are not required to incorporate the preference in their bids and may not be rejected for non-participation. State agencies, however, which have not achieved the three percent goal in two of the last three years, are obligated to include it in their solicitations. The Department, when having met or exceeded the DVBE three percent goal for two out of the three previous years, may elect to exempt contracts from the DVBE Incentive. Approval to exempt the DVBE incentive must come from the Director or his/her designee. The three most current published DGS annual reports are used to document a department's DVBE participation goal. (CCR 1896.99)

The incentive, while similar to the SB preference, is based on the level of DVBE participation and ranges from one to five percent. The preference may not displace a certified SB which is the low bidder unless that bidder has a SB certification as well. (GC Section 14600 and Section 14615; MVC Section 999.5 (a) and (d).)

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SB

8353

SB Calculation Preference (New Jan/10)

8353.1

Department policy mandates that the SB preference of five percent be applied when a certified SB is competing with a large business for an award. To apply the preference, five percent of the low net large business bid is subtracted from the SB net bid. If this five percent preference makes the SB bid lower than the large business bid, the award can then be made to the SB, using its quoted bid price. (Government Code Section 14838 b1)

Non-SB Calculation Preference (New Jan/10)

Department to support and encourage the application of the non-SB preference for prime bidders who subcontract with small businesses when responding to the Department's solicitations. The calculation preference is applied in a manner similar though not identical to the SB preference made between a certified SB and non-SB but is made between two non-small businesses. In order to receive consideration for the non-SB calculation preference of five percent, prime bidders must subcontract a minimum of 25 percent of their bid total to a certified SB subcontractor. It is important to note that this preference does not allow the non-SB to take an award away from a certified SB low bidder. (Government Code Section 14838.5)

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**CALIFORNIA ENERGY COMMISSION
POLICY STATEMENT FOR SMALL BUSINESS AND DISABLED VETERAN BUSINESS
ENTERPRISE PROGRAM
September 2002**

Governor Davis recently signed Executive Orders D-37-01 and D-43-01 mandating state agencies to conduct a minimum 25 percent of their annual purchasing/contract funds with certified Small Businesses (SB) and 3 percent with certified Disabled Veteran-Owned Business Enterprises (DVBE).

These Executive Orders will change the way the Commission procures goods and services. It is the policy of the California Energy Commission to seek out and encourage active Small Business (SB) and Disabled Veteran Business Enterprise (DVBE) participation in all procurement opportunities. The Commission's SB and DVBE Program are mandated by Government Code Sections 927, 14838.5, 14845-6, 15379.5, 65404, and Executive Orders D-37-01, and D-43-01.

Annually, the Commission shall aggressively pursue at least 3 percent DVBE and 25% SB participation. A SB/DVBE Advocate has been appointed to assist SB's and DVBE's in their pursuit of bidding opportunities for the Commission. All Requests for Proposal's will contain the appropriate SB/DVBE language and forms to better assist bidders in their search for these types of businesses. In addition, quotes will be solicited from SB or DVBE vendors for all purchase orders to facilitate bidding opportunities for these targeted businesses.

Commission management and staff will be made aware of the Commission's commitment to the SB/DVBE Program. The SB/DVBE Advocate will coordinate training for staff. The Advocate will attend quarterly Advocate meetings held by the Department of General Services, SB/DVBE vendor fairs, and other relevant functions to facilitate the Commission's objective to meet or exceed the SB/DVBE participation requirements.

In order to assist staff with the implementation of these directives, Sandra Barnett in the Contract Office has been appointed as the Commission's SB/DVBE Advocate. Sandra will be assisting SB/DVBE vendors that want to participate in bidding opportunities and will also assist staff in achieving SB and DVBE procurement goals for the Commission.

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CALIFORNIA HIGHWAY PATROL

MIS COMM-NET MESSAGE

7-31-01

ALL COMMANDERS - NECESSARY ACTION

SUBJECT: SMALL BUSINESS AND DISABLED VETERAN-OWNED BUSINESS ENTERPRISE REQUIREMENTS FOR PURCHASING AND SERVICE CONTRACTS

GOVERNOR GRAY DAVIS RECENTLY SIGNED EXECUTIVE ORDERS D-37-01 AND D-43-01 WHICH MANDATE THAT STATE AGENCIES CONDUCT A MINIMUM OF 25 PERCENT OF THEIR ANNUAL BUSINESS WITH CERTIFIED SMALL BUSINESSES (SB) AND 3 PERCENT WITH CERTIFIED DISABLED VETERAN-OWNED BUSINESS ENTERPRISES (DVBE). THESE EXECUTIVE ORDERS WILL CHANGE THE WAY DEPARTMENTAL EMPLOYEES SECURE GOODS AND SERVICES.

ALTHOUGH CURRENT STATE AND DEPARTMENTAL POLICIES FOR COMMODITY PURCHASES OR SERVICE CONTRACTING REFLECT CONSIDERATION OF CERTIFIED SB AND DVBE VENDORS, EFFECTIVE IMMEDIATELY, COMMANDS SHALL MAKE EVERY EFFORT TO ACQUIRE GOODS OR SERVICES FROM CERTIFIED SB OR DVBE VENDORS PRIOR TO SEEKING ALTERNATE SUPPLIERS. THIS REQUIREMENT INCLUDES "X" NUMBERS AND CAL-CARD ACTIVITIES. CERTIFIED SB AND DVBE VENDORS HAVE MET REQUIREMENTS ESTABLISHED BY THE DEPARTMENT OF GENERAL SERVICES AND POSSES A CERTIFICATION LETTER. A COPY OF THIS CERTIFICATION LETTER SHALL BE OBTAINED BY THE REQUESTER AND FORWARDED WITH THE CHP 43, PURCHASE REQUISITION OR THE CHP 78, CONTRACT REQUEST. IN THE EVENT A CERTIFIED SB OR DVBE IS NOT SUITABLE, A WRITTEN JUSTIFICATION MUST BE INCLUDED ON EITHER THE CHP 43, PURCHASE REQUISITION FOR COMMODITIES OR CHP 78, CONTRACT REQUEST FOR SERVICES.

IN ORDER TO ASSIST COMMANDS WITH IMPLEMENTATION OF THESE DIRECTIVES, A CERTIFIED BUSINESS ADVOCACY UNIT WAS ESTABLISHED WITHIN BUSINESS SERVICES SECTION (BSS). THIS UNIT IS CHARGED WITH SMALL BUSINESS ADVOCATE AND LIAISON FUNCTIONS AND, AS REQUIRED BY CURRENT LAW, IS RESPONSIBLE FOR IMPROVING SB AND DVBE ACCESS TO DEPARTMENTAL PURCHASING AND CONTRACTING OPPORTUNITIES. AN EMPLOYEE TRAINING PROGRAM IS BEING DEVELOPED AND WILL INITIALLY BE INCORPORATED INTO THE CAL-CARD TRAINING SCHEDULED FOR MID-AUGUST.

ADMINISTRATIVE POLICY
OPERATING 4.326 (revised 1/8/02)

SMALL AND DISABLED VETERAN BUSINESS PROCUREMENT PROGRAMS

1.0 Purpose

The purpose of this policy is to endorse the departmental procurement participation levels expected for Small Business and Disabled Veteran Business Enterprises.

2.0 Persons Affected

All DMV staff that participate in procurement or contract activities.

3.0 Policy

Pursuant to [Executive Order S-02-06](#) and [Executive Order D-43-01](#) the DMV shall aggressively pursue an annual 25 percent certified Small Business and 3 percent certified Disabled Veteran Business Enterprise (DVBE) participation level in departmental contracting/procurement.

To facilitate this participation level the director has appointed a Small Business Advocate within the Administrative Services Division. The Small Business Advocate will assist department procurement and contract staff in identifying small businesses and DVBEs that can provide required commodities or services. Procurement staff will demonstrate a “good faith effort” by attempting to satisfy procurement and contracting needs through certified small business or DVBE vendors prior to contacting other resources.

4.0 Procedures

All department procurement staff will consult with the resources provided by the Small Business Advocate prior to preparing a commodity or service request. Where a commodity or service is available through a small or DVBE business, procurement staff will conduct a “good faith effort” to satisfy the procurement request through such a vendor.

5.0 Roles and Responsibilities

Small Business Advocate: **Promote Small Business participation in state contracting and procurement opportunities, attend Small Business council meetings, state sponsored small**

CHAPTER III PROGRAM POLICY AND POLICY STATEMENTS

business advocate task force groups, and the Governor's sponsored small business advocate meetings. Participate in state sponsored economic conference and opportunity fairs focusing on enhancing contracting and procurement opportunities for small businesses. Provide required reports to Agency; the Department of General Services, Office of Small Business Certification and Resources; the Department of Veterans Affairs; the Legislature; and the Governor's Office. Advise departmental Procurement staff on the best possible small business/DVBE solution to their specific issue or need.

Managers and Supervisors: Responsible to ensure that the department procurement staff observe this policy and coordinate procurement and contract efforts with the Small Business Advocate.

All Staff: Responsible to observe this policy and support the DMV "good faith effort" to provide requested commodities and services through certified small and DVBE businesses.

6.0 Definitions

Disabled Veteran Business Enterprise: A small business certified by the State whose owner has served in the military service.

Good faith effort: All efforts intended to identify and attain Small Business and DVBE participation.

Small Business: A business certified by the State to have 100 or fewer employees and average annual gross receipts of \$10 million or less over the previous three tax years, or a manufacturer with 100 or fewer employees.

7.0 Authority/References

[Executive Order S-02-06](#)

[Executive Order D-43-01](#)

AB 409, AB 505, and AB 2405

8.0 Related Information

DMV Small Business and DVBE Home Page at <http://www.dmv.ca.gov>