

DVBE Business Utilization Plan

Important:

The Good Faith Effort (GFE) option has been eliminated for all solicitations issued on and after July 28, 2009, at 11:15 a.m. See the DGS [FAQ](#) for Assembly Bill 21 of the Fourth Extraordinary Session (AB4X 21) for more information.

A Commitment to Contract with California Disabled Veteran Business Enterprises

INSTRUCTIONS FOR PREPARATION AND SUBMISSION

State of California, Department of General Services
Procurement Division
May 7, 2004

California's Commitment to Disabled Veterans

The State of California acknowledges the service and sacrifice of its disabled veterans, in part, through the "Disabled Veteran Business Enterprise (DVBE) Participation Program." With the DVBE program, state agencies have a goal to award at least 3% of their annual contract dollars to certified DVBEs.

When firms bid on designated state contracts, they have the option of fulfilling the DVBE requirement for each contract or submitting an annual "DVBE Business Utilization Plan" that commits them to doing business with certified DVBEs throughout the year. This document explains the utilization plan option, specifically:

- What is a "DVBE Business Utilization Plan" and who can use one?
- What factors should be considered when deciding whether or not to establish a DVBE Business Utilization Plan?

This package contains:

- The DVBE Business Utilization Plan Application
- Instructions for Submittal
- An Explanation of the Review Process

This document is published by the
State of California
Department of General Services,
Office of Small Business and DVBE Services

Please direct Questions or Comments to:

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What is a DVBE Business Utilization Plan (BUP)?

A DVBE Business Utilization Plan is a written commitment to contract with certified DVBEs for at least 3% of your business' total contract dollars *expended in California* during the next year. This 3% applies to all business done by your firm in California --not just contracts with the State of California.

Public Contract Code (PCC) establishes the DVBE Business Utilization Plan as an option to fulfill DVBE Participation Program requirements (See § 10115.15).

Contracts That Qualify for a DVBE Business Utilization Plan

State agencies may accept DGS-approved business utilization plans when awarding contracts *only for goods and information technology goods and services* to meet DVBE Participation Program requirements. Business Utilization Plans (BUP) are not applicable to any other type of contract.

Meeting DVBE Participation Goals

Many State contracts have a stated DVBE participation goal. The goal for an individual contract may be more or less than 3%.

When a firm bids on a state solicitation, the bid must address how the firm intends to meet the DVBE goals. A firm has two compliance options for doing so:

1. Locate and commit to subcontracting with certified DVBE firms who will perform at least 3% or the percent of work specified by the contract; or
2. Reference a DGS-approved DVBE Business Utilization Plan

What is a Certified DVBE?

A certified DVBE is one currently certified by the State of California, Office of Small Business and DVBE Certification (OSDC), SB/DVBE Services Branch. A list of currently certified DVBEs can be found on-line at [url](#).

Who Should Choose the Business Utilization Plan Option?

Any firm that intends to bid on state contracts for "materials, supplies or equipment, including electronic data processing and telecommunications goods and services" may request a business utilization plan. However, each firm should decide if a business utilization plan is the best method for achieving the 3% DVBE goal. This decision requires an evaluation of your firm's total California expenses versus the value of contracts you anticipate being awarded. The higher the percentage of state contracts you anticipate being awarded, the more sense it makes to consider the business utilization plan option.

Some things to consider:

- The preparation of a business utilization plan and the subsequent reporting of requirements take time and commitment. If you only bid on a few state contracts each year, it may be easier to simply fulfill the DVBE requirements each time you bid.
- A business utilization plan is a promise to contract 3% of your total in-state business to DVBEs; **if you fail to meet the commitment, you may be prevented from doing future business with the state for up to two years.** You'll find more information on the [penalties section](#).

For More Information

For more information, please contact the Office of Small Business and DVBE Services at (916) 375-4940 or (800) 559-5529, or go to the following links:

[Instructions for Completing a DVBE Business Utilization Plan](#)
[DVBE Business Utilization Plan Application](#)
[DVBE Business Utilization Plan Renewal](#)

The Review Process

The Procurement Division will review your plan to verify that you have included all of the information required in Sections 1-15 of the instructions. When a decision is made, you will be notified in writing of one of the following outcomes:

Plan Approval

If your plan is approved, you will receive an approval letter with the following information:

- The plan's effective date
- The expiration date (one year from the effective date)
- The DVBE goals for the year covered by the plan
- Compliance reporting due dates. At least every three months, vendors will be required to report success towards meeting their stated DVBE goals.

Incomplete Plans

If your plan does not include all of the information required by Sections 1-15, or if further information is needed for clarification, you will receive a letter of deficiency and an opportunity to correct those deficiencies.

Plan Denial

Public Contract Code (PCC) specifies three reasons for which a plan can be denied:

1. If the plan does not include all the information required;
2. If the plan does not show sufficient business reasons for failure to achieve goals set forth in the previous year's plan;
3. If the plan does not show sufficient remedial steps the vendor will take if the vendor did not meet the goals set forth in the previous year's plan.

If any of these items occur, you will receive a denial letter. An applicant whose plan is denied may not submit a new plan for one year from the date of denial. Before a plan is denied, the applicant is entitled to a five-day notice and a public hearing. For more

information, see Public Contract Code (PCC), Section 10115.15, Subsection (C) (1) (A-C).

Potential Audits and Penalties

Your approved business utilization plan must be accurate and verifiable. Plans are randomly audited and vendors whose plans are not in compliance may face penalties.

If an audit determines that a vendor was awarded a contract as a result of an approved business utilization plan, and the vendor does not show intent to fully comply with the goals of the approved plan, or fails to show sufficient business reasons for failing to achieve the goals, the vendor shall be subject to the following penalties:

1. Pay to the state any difference between the contract amount and what the state's costs would have been if the contract had been properly awarded, and
2. Pay a penalty not more than 10% of the amount of the contract, and
3. Be ineligible to transact any business with the state for a period of time not less than three months and not more than 24 months.

Before such penalties are imposed, the vendor is entitled to a public hearing.

For more information, see Public Contract Code (PCC), Section 10115.15, Subsection (C)(3)(A-C).