

MANAGEMENT MEMO

	NUMBER: MM08-03
SUBJECT: DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) INCENTIVE PROGRAM FOR PUBLIC WORKS CONSTRUCTION, SERVICE, LEASING, MATERIALS TESTING AND RELATED CONTRACTS.	DATE ISSUED: MARCH 5, 2008 EXPIRES: RESCINDED 12/19/16 UNTIL RESCINDED
REFERENCES: GOVERNMENT CODES §14600, §14615, §14838(F); MILITARY AND VETERANS CODE §999; CALIFORNIA CODE OF REGULATIONS §1896.98 ET SEQ.	ISSUING AGENCY: DEPARTMENT OF GENERAL SERVICES

Purpose This Management Memo notifies State Agencies of the new procedures and policy for the Department of General Services (DGS) regarding the DVBE Incentive Program under the approved Regulations effective October 9, 2007. The DVBE Incentive Program will be implemented on all contracting and procurement activities utilizing the DVBE program requirement for services including: Public Works Construction, Service, Leasing, Materials Testing and related contracts.

Who is affected All State Agencies, Boards and Commissions utilizing services provided by the Real Estate Services Division within the DGS. Clients may see an impact to their projects' budgets as a result of the Incentive program.

Background The State established a DVBE Participation Goal of at least three percent of total contract dollars going to certified DVBE businesses. The goal applies to the total contract dollars expended each year by an awarding department. The DGS is committed to meeting and exceeding the three percent goal for DVBE Participation in State contracting and has implemented the DVBE Incentive program on contracting and procurement activities to further enhance the Department's commitment. The DVBE Incentive will be applied on all contracting and procurement activities utilizing the DVBE Program requirement for services including the following: Public Works Construction, Service, Leasing, Materials Testing and related contracts.

Incentive Program This Management Memo details the standard DGS Incentive Program. All contracts that include the DVBE program requirements will also include this DVBE Incentive program. Notification of the DGS Incentive program and program details will be included or referenced in the solicitation. Should the Department of General Services' highest ranking executive officer or his/her designee change the percentage of the incentive and/or cap for a specific contract or procurement (as permissible by the regulations), such changes will be detailed or referenced in the solicitation.

This DVBE Incentive will be applied during the evaluation process and will only be applied to responsive bids from responsible parties proposing the percentage(s) of DVBE participation for the DVBE Incentive(s) specified in

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the solicitation. At no time, shall application of the DVBE Incentive displace an award to a certified small business with a non-small business (CCR 18.96.99.100 (c)). Under the DVBE Incentive program any bidder not meeting the criteria to be certified as a Small Business is considered a “non-small business”.

Award Based on
Low Price

For awards based on low price:

- The DVBE Incentive is equal to a bidder’s DVBE participation level (rounded to the nearest two (2) decimal places).
- The DVBE Incentive is subject to a minimum of one (1.00) percent and a maximum of five (5.00) percent and will not exceed \$500,000. This means, bids with DVBE participation of less than 1.00 percent will not qualify for an incentive. Bids with DVBE participation of more than 5.00 percent will be calculated with a 5.00 percent incentive.
- Bidders with DVBE participation of less than the required percentage listed in the solicitation (generally three percent) must still perform and submit a Good Faith Effort with their bid in order to meet the DVBE requirements.
- The Small Business Preference (5 percent up to \$50,000) may be combined with the DVBE Incentive but will not exceed a combined total of \$500,000.
- The DVBE Incentive is computed from the lowest responsive and responsible bid price.
- The dollar amount of the DVBE Incentive is then subtracted from that bid price to obtain the adjusted bid price, for comparison only.
- Bids will be awarded at the actual bid amount as verified by the State.
- The DVBE Incentive may be combined with the existing Small Business Preference Program.

Award Criterion

Under the DVBE Incentive program a bidder claiming the Non-Certified Small Business Preference is considered a non-small business.

When two or more adjusted bid prices are equal, award will be made in the following order:

- Certified Small Business Preference Bidder with highest percentage of DVBE Participation.
- Certified Small Business Preference with no DVBE Incentive.
- Non-Certified Small Business Preference Bidder with highest percentage of DVBE Participation.
- Non-Certified Small Business Preference Bidder with no DVBE Incentive.
- Bidder with highest percentage of DVBE Participation and no Small Business Preference.
- Bidder with no Small Business Preference or DVBE Incentive.

If adjusted bid prices are equal and preference status and DVBE participation are equal, the award decision will be made by the State with a coin toss.

RESCINDED BY MM16-08 12/19/2016 Updated Content in SCM Vol. 2.
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For details and examples of how the DVBE Incentive will be calculated, please see Attachment 1.

Contact
Information

If you need additional information or assistance, please contact:
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Signature

Original SAM Management Memo signed by Will Bush, Director

Will Bush
Director, Department of General Services

Attachments: Attachment 1 MM 08-03

**Attachment 1 – MM 08-03
Calculating the DVBE Incentive for Low Price**

A. ORDER OF OPERATIONS

1. Determine if any bids are non-responsive or not responsible.
2. Determine the lowest responsive and responsible bidder.
3. Determine if bidders qualify for Small Business Preference.
4. Determine if bidders qualify for the DVBE Incentive Program.
5. Perform Adjusted Bid Price Calculations for bids requesting the Small Business Preference to determine if there is a new low Bidder.
6. Perform Adjusted Bid Price Calculations for bids requesting the DVBE Incentive.
7. Compare Adjusted Bid Prices against the Award Criterion (see memo or item E below). Adjust the order of Bidders to account for: 1. the application of the Small Business Preference and 2. the DVBE Incentive program.
8. Issue Final Bid Tabulation or Notice of Award with adjustments and qualified preferences/incentives shown.

B. CALCULATING THE ADJUSTED BID PRICE FOR THE DVBE INCENTIVE ONLY

1. If the percentage of a bidder's DVBE participation falls between 1.00% and 5.00% the DVBE participation percentage is **equal** to the percentage of DVBE Incentive. This means, bids with DVBE participation of less than one (1.00) % will not qualify for the DVBE Incentive and should not be calculated. Bids with DVBE participation of more than five (5.00) % will be calculated with a five (5.00) % DVBE Incentive.
2. The Low Bidders Bid amount **multiplied by the** percentage of DVBE Incentive **equals** dollar value of DVBE Incentive. (Note: If calculating the DVBE Incentive for the Low Bidder, the Low Bidders Bid amount is still used.)

$$\begin{array}{r} \text{Low Bidder bid amount} \\ \times \text{ DVBE Incentive percentage} \\ \hline \text{Dollar value of Bidder's DVBE Incentive} \end{array}$$

3. Bidders actual bid price **minus** the dollar value of the incentive **equals** adjusted bid price of the Bidder for DVBE Incentive comparison purposes only.

$$\begin{array}{r} \text{Bidder's actual bid price} \\ - \text{ Dollar value of Bidder's DVBE incentive} \\ \hline \text{Bidder's DVBE Incentive adjusted bid price} \end{array}$$

4. Perform this calculation for all bids qualifying for the DVBE Incentive.

C. CALCULATING THE ADJUSTED BID PRICE FOR THE DVBE INCENTIVE AND SMALL BUSINESS/NON-CERTIFIED SMALL BUSINESS PREFERENCE TOGETHER IF LOW BIDDER IS NOT CLAIMING A PREFERENCE

1. If the Low Bidder is not claiming the Small Business Preference, calculate the dollar value of the Small Business Preference or Non-Certified Small Business Preference as you normally would. Take 5% of the Low Bidders bid up to a maximum of \$50,000. This is the dollar value of the Preference.
2. Complete Steps 1 and 2 of the DVBE Incentive calculation above to determine the dollar value of the Bidder's DVBE Incentive.
3. **Subtract** the dollar value of the Preference and the dollar value of the DVBE Incentive from the Bidder's actual bid price.

Bidder's actual bid price
- Dollar value of Bidder's preference
- Dollar value of Bidder's DVBE incentive
Bidder's adjusted bid price with Preference and Incentive

4. Perform this calculation for all bids qualifying for the Small Business Preference/Non-Certified Small Business Preference and the DVBE Incentive.

D. WHEN THE LOW BIDDER CLAIMS ONE OF THE SMALL BUSINESS PREFERENCES

If the Low Bidder is claiming the Small Business Preference or the Non-Certified Small Business Preference, the 5% or \$50,000 max is not calculated for any bidder. However, the DVBE Incentive would be calculated.

A Low Bidder claiming the Small Business Preference can only be displaced by another bidder claiming the Small Business Preference, if the adjusted bid price with Preference and DVBE Incentive is lower.

A Low Bidder claiming the Non-Certified Small Business Preference can be displaced by a bidder claiming the Small Business Preference OR the Non-Certified Small Business Preference, if the adjusted bid price with Preference and DVBE Incentive is lower.

E. AWARD CRITERION

Under the DVBE Incentive program a bidder claiming the Non-Certified Small Business Preference is considered a non-small business.

When two or more adjusted bid prices are equal, award will be made in the following order:

- Certified Small Business Preference Bidder with highest percentage of DVBE Participation.

- Certified Small Business Preference with no DVBE Incentive.
- Non-Certified Small Business Preference Bidder with highest percentage of DVBE Participation.
- Non-Certified Small Business Preference Bidder with no DVBE Incentive.
- Bidder with highest percentage of DVBE Participation and no Preference.
- Bidder with no Preference or DVBE Incentive.

If adjusted bid prices are equal and preference status and DVBE participation are equal, the award decision will be made by the State with a coin toss.

F. EXAMPLES

Example (1)

#1	Bidder A	\$950,000
#2	Bidder B – with 5% DVBE participation Less the Incentive (5% of \$950,000)	\$975,000 <u>- \$47,500</u>
	<i>Adjusted Bid Price of Bidder B</i>	\$927,500

Bidder B’s adjusted bid price of \$927,500 is less than the Low Bidder’s price \$950,000. Award will be made to Bidder B for a \$975,000 contract. Bidder A is displaced by a bid with the 5% DVBE incentive.

Example (2)

#1	Bidder A - (with 3% DVBE participation) Less the Incentive (3% of \$1,250,000)	\$1,250,000 <u>- 37,500</u>
	<i>Adjusted Bid Price of #1 Low Bid</i>	\$1,215,500
#2	Bidder B - (with 5% DVBE participation) Less the Incentive (5% of \$1,250,000)	\$1,300,000 <u>- 62,500</u>
	<i>Adjusted Bid Price of #2 Bid</i>	\$1,237,500

Adjusted Bid Price of \$1,237,500 is higher than #1 Low Bid Adjusted Bid Price of \$1,215,500. Award will be made to #1 Low Bid for a \$1,250,000 contract. Bidder A holds the Low Bid position with a 3% DVBE Incentive.

Example (3)

#1	Bidder A -(with Small Business Preference)	\$1,250,000
#2	Bidder B -(with 5% DVBE participation) Less the Incentive (5% of 1,250,000)	\$1,300,000 <u>- 62,500</u>
	<i>Adjusted bid for comparison</i>	\$1,237,500

Bidder B’s adjusted bid price of \$1,237,500 is lower than the Low Bid of \$1,250,000; however, a Small Business can only be displaced by another Small Business. Award will be made to Bidder A for a \$1,250,000 contract.

Example (4)

#1	Bidder A (with Small Business Preference)	\$1,250,000
#2	Bidder B (with Small Business Preference and 5% DVBE participation) Less the Incentive (5% of 1,250,000)	\$1,300,000 <u>- 62,500</u>
	<i>Adjusted bid for comparison</i>	\$1,237,500

Bidder B’s adjusted bid price of \$1,237,500 is lower than the Low Bid price of \$1,250,000. Award will be made to Bidder B for a \$1,300,000 contract. Bidder A is displaced by another Small Business with a 5% DVBE incentive.

Example (5)

#1	Bidder A	\$1,200,000
#2	Bidder B - (with Small Business Preference and 1% DVBE participation) Less the preference (5% or \$50,000 max) Less the incentive (1% of \$1,200,000)	\$1,250,000 -50,000 <u>-12,000</u>
	<i>Adjusted bid for comparison</i>	\$1,188,000
#3	Bidder C - (with Non-Small Business Preference and 5% DVBE participation) Less the preference (5% or \$50,000 max) Less the incentive (5% of \$1,200,000)	\$1,275,000 -50,000 <u>-60,000</u>
	<i>Adjusted bid for comparison</i>	\$1,165,000

Applying the Small Business preference only, Bidder B and Bidder A would have the same bid price of \$1,200,000 but Bidder B would receive the award because of the Small Business Preference. Bidder B would thus be in the #1 position.

When adding in the incentive, calculations are based on the original low bid price before the Small Business Preference is calculated. Thus, Bidder C has the lowest adjusted bid price at \$1,165,000. Even though Bidder C claims a 5% incentive it can not displace Bidder B in the #1 position because Bidder B is a Small Business. The award would be made to Bidder B for a \$1,250,000 contract. The award order would be as follow: #1- Bidder B; #2- Bidder C; #3- Bidder A.

Example (6)

#1	Bidder A – (with 2% DVBE participation) Less the incentive (2% of \$1,225,000) <i>Adjusted bid for comparison</i>	\$1,225,000 - <u>24,500</u> \$1,200,500
#2	Bidder B - (with 7% DVBE participation) Less the incentive (5% of \$1,225,000) <i>Adjusted bid for comparison</i>	\$1,250,000 - <u>61,250</u> \$1,188,750
#3	Bidder C - (with Small Business Preference) Less the preference (5% or \$50,000 max) <i>Adjusted bid for comparison</i>	\$1,280,000 - <u>50,000</u> \$1,230,000

When the Small Business Preference is calculated, Bidder C does not have an adjusted bid lower than the Low Bidder. Adding in the incentive, Bidder B's adjusted bid price of \$1,188,750 is lower than Bidder A. The award will be made to Bidder B for a \$1,250,000 contract. The Low Bidder is displaced by a bid with a 5% incentive. The award order would be as follows: #1- Bidder B; #2 -Bidder A; #3 - Bidder C.

Example (7)

#1	Bidder A	\$100,000
#2	Bidder B - (with Small Business Preference and 2% DVBE participation) Less the preference (5% or 50,000 max) Less the incentive (2% of \$100,000)	\$106,000 5,000 <u>- 2,000</u>
	<i>Adjusted bid for comparison</i>	<i>\$99,000</i>
#3	Bidder C - (with Small Business Preference and 3% DVBE participation) Less the preference (5% or 50,000 max) Less the incentive (3% of \$100,000)	\$107,000 5,000 <u>- 3,000</u>
	<i>Adjusted bid for comparison</i>	<i>\$99,000</i>

Applying the Small Business Preference alone, neither Bidder B nor Bidder C would be able to take the Low Bid position. Adding in the DVBE Incentive, the adjusted bid price of Bidder B and Bidder C are equal at \$99,000. Based on the award criterion, the bid would be given to the Small Business with the highest percentage of DVBE participation. The award will be made to Bidder C for \$107,000. Bidder C displaces the low bidder with a 3% incentive and Small Business preference.

Example (8)

#1	Bidder A	\$125,000,000
#2	Bidder B - (with 5% DVBE participation) Less the incentive (5% of \$125,000,000 or a \$500,000 max)	\$136,000,000 <u>- \$500,000</u>
	<i>Adjusted bid for comparison</i>	<i>\$135,500,000</i>

When applying the DVBE Incentive to Bidder B's bid, the maximum dollar value allowable would be \$500,000. The adjusted bid price of Bidder B is not less than Bidder A. Award would be made to Bidder A for a \$125,000,000 contract.