

State of California

Small Business and DVBE Program Advocate Toolkit

Information and Resource Guide for
California's Small Business and DVBE Advocates

February 2012

SMALL BUSINESS (SB) AND DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PROGRAM OVERVIEW

Welcome to the Statewide Advocate Toolkit!

The information presented here is to assist you better understand Small Business and DVBE program mandates, regulations, requirements and procedures. Within this Toolkit, you will find information related to program legislation, best practices, outreach and education, roles and responsibilities, program reporting, policy, and program planning that might help you in your advocate role.

Many departments and their advocates contributed to the creation of the toolkit. We gratefully acknowledge the following departments for their contribution and time in developing the Statewide SB/DVBE Advocate Toolkit:

- Department of Motor Vehicles
- DGS Office of Small Business and DVBE Services
- Department of Veteran Affairs
- California Highway Patrol
- Consumer Affairs
- Franchise Tax Board
- Department of Corrections and Rehabilitation
- Department Water Resources
- Department of Rehabilitation
- Department of Parks and Recreation

The ***Advocate Toolkit*** is the result of the contribution, research, compilation and development of information for numerous activities related to the SB and DVBE programs. It has been developed for “Toolkit” users by the users themselves – the SB and DVBE Advocates. We’ve attempted to address aspects of both programs using our experiences, successes and best practices in our attempt to provide a well rounded view of each program.

We hope you find it useful.

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SB/DVBE Program Overview

California state agencies and departments are mandated by law and by Executive Order to appoint a single point of contact to act as both the Small Business (SB) and Disabled Veterans Business Enterprise (DVBE) Advocate. The Advocate's responsibility is to promote and implement program requirements to assist their department with providing purchasing and contracting opportunities within the SB and DVBE business communities. Legislative mandates require that agencies and departments place 25 percent of their total annual expenditures with the SB community and 3 percent with the DVBE community.

The following information is a brief overview of the SB and DVBE programs. More detailed information on each program is contained within the SB/DVBE Advocate Tool Kit chapters.

Small Business (SB)

Did you know that out of all businesses registered in California, small business owners comprise 98 percent of registered businesses? As a direct result, California's overall economy is significantly impacted by the success or failure of small businesses. For the benefit of both the small business community and the State, the Small Business Certification Program was established under the Small Business Procurement and Contract Act (GC 14835) to increase business opportunities by allowing certified small businesses to compete on a more level playing field.

The Small Business Program includes a number of features for a certified small business that are not available to non-small businesses. Foremost is the SB calculation preference where small businesses competing against non-small businesses are provided certain advantages to assist them achieve increased bid award opportunities through a five (5) percent calculation preference. SB certification also offers additional benefits through the Prompt Payment Act and, as well, provides opportunities to compete directly with other certified small businesses through the Small Business Option (G.C. 14838.5) process.

Additionally, the program also allows for application of the Non-Small Business (NSB) preference calculation to those non-small bidders whose response includes a certified small business partner for *at least 25 percent* of the overall awarded contract value. Application of the NSB preference may result in award of the bid to the NSB. Application of the NSB preference cannot be used to displace the low bid of a certified SB.

Additional detailed information on the Small Business program can be found in Chapter 5, Small Business Program.

Disabled Veteran Business Enterprise Program (DVBE)

The DVBE program was established in 1989 through the enactment of California Military and Veterans Code (MVC) 999 and Public Contract Code (PCC) 10115. The program's purpose is twofold:

1. It provides certified DVBE-owned businesses with greater opportunity to compete for a portion of the billions of dollars awarded annually through either direct award or through subcontracted efforts and,
2. It promotes self-reliance for California's disabled veterans by offering veteran's the opportunity to gain experience in business.

State agencies and departments must include DVBE participation program requirements in each competitively awarded contract for goods, professional services, construction and, IT goods and services unless the director, or designee, of the agency or department formally waives the DVBE program from that specific contract effort.

In January 2006 the DVBE Incentive was introduced to give prime bidders an incentive for inclusion of DVBE subcontractors in their bids when the program as a required component has been waived. The incentive gives the bidder the *option* of using a DVBE subcontractor and an opportunity to receive an incentive calculation which may place them in line for bid award. The incentive cannot be used to displace a certified small business low bidder.

Good Faith Effort Abolished

In July 2009, the “Good Faith Effort”, was abolished as a required component of the DVBE Participation program. As a result, bidders responding to solicitations that include the DVBE Program must identify a DVBE subcontractor within their bid otherwise their bid will be rejected. The level of DVBE participation will be identified within the advertised solicitation.

Additional detailed information about the DVBE program can be found in Chapter 6, Disabled Veteran Business Enterprise Program.

Small Business/DVBE Program Mandates and Directives

Military and Veterans Code 999.12 mandates each department to appoint a DVBE Program Advocate and states further “that the person shall be the same individual pursuant to Government Code 14846” which directs the appointment of a department Small Business Advocate. The SB/DVBE Advocate Toolkit provides greater detail on the roles and responsibilities of the SB/DVBE in Advocate Toolkit, Chapter I. “Roles and Responsibilities”.

Each year the State of California awards billions of dollars through the competitive bid process for commodities, professional services, construction and Information Technology (IT) goods and services. Through the enactment of various legislative mandates the State has focused its attention on SB and DVBE sectors in an effort to achieve increased business opportunity within those communities.

Subsequent Executive Orders S-02-06 and D-43-01 issued by the Governor’s Office further compels agencies and departments to achieve the mandated participation levels of each program.

DGS, Office of Small Business and DVBE Services

As specified through Executive Orders, Government Code and Public Contract Code, the Department of General Services (DGS) has direction and management authority over the Office of Small Business and DVBE Services (OSDS) and it’s various program activities. As such, the office is the State’s primary resource to disseminate SB and DVBE programs, conducts outreach and marketing for SB/DVBE certification opportunities, and develops policies and procedures affecting the overall procurement of services and goods throughout the State.

Some of the numerous DGS/OSDS responsibilities include, but are not limited to:

- SB/MB and DVBE certification for businesses meeting SB/MB program eligibility requirements and/or DVBE program eligibility requirements

- Investigation of alleged certification or program fraud.
- Imposing of sanctions and penalties on contractors for specified periods of time for Small or DVBE program violations.
- Maintain a list of debarred or suspended firms
- Interpretation, development and adoption of SB/MB and DVBE program regulations resulting in Public Contract and Government Code Business and community outreach events to promote SB/MB and DVBE program certification and to enhance partnerships between the state and SB/MB and DVBE businesses.
- Compile, tabulate and report SB/MB and DVBE participation levels achieved statewide by each agency/department annually to the Legislature

Following this overview, you will find a reference table of Small Business and DVBE program requirements and their related code citations.

What Defines Advocate Success?

The SB/DVBE Advocate is the conduit for successful business relations between their department and the SB/DVBE business communities. Each program will be successful commensurate to the level of dedication, management support and direct involvement the advocate has in the day-to-day business procurement activities of their departments.

The successful advocate can see their department's big picture and at the same time understand the various nuances and components unique to that department's business needs. The successful advocate is aware of the many opportunities to network with other advocates, utilize best practices and invent new and effective ways to achieve SB/DVBE goals. The successful advocate enlists both management and program staff actively to achieve overall SB/DVBE goals through effective communication, education and implementation of programs and tools to bring about program success.

Ultimately, overall program success is achieving or exceeding both SB/DVBE program participation mandates. However, keep in mind that, while achieving mandated goals is *the* target, success can be incremental and measured in the gradual improvement of your department's performance.

Whatever you're achievement – no matter how big or small – remember that you have contributed to the overall success of California's Small Business and DVBE programs.

SB/DVBE Government, Public Contract and Military Code References

The following table provides various program SB or DVBE program requirements and the applicable Public Contract Code (PCC), Government Code (GC) or Military and Veterans Code (MVC) reference.

PROGRAM REQUIREMENT	SMALL BUSINESS GC/PCC	DVBE MV/GC/PCC
ADVOCATE LIASION	GC 14835, 14,845, 14846, 14847	MVC 999.2, 999.7, 999.12 PCC 10115
ANNUAL CORRECTION AND IMPROVEMENT PLAN	PC 10111 Executive Order D-37-01 Executive Order S-02-06	PC10111 Executive Order D-43-01
BUSINESS UTILIZATION PLANS		PCC 10115.15
COMMERCIALLY USEFUL FUNCTION	GC 14837.4(A)	MVC 999 (a) (5) (B)
CONSOLIDATED ANNUAL REPORT (SB/MB/DVBE/ERG/Consulting)	PCC 10111 Executive Order D-37-01 Executive Order S-02-01	PCC 10111 Executive Order D-43-01
DGS DUTIES/RESPONSIBILITIES	GC 14839	GC 14839
DVBE INCENTIVE APPLICATION		CCR 1896.99.100
DVBE INCENTIVE AMOUNT		CCR 1896.99.120
GOOD FAITH EFFORT	ABOLISHED JULY 2009	
SB/DVBE OPTION BID	GC 14838.5	GC 14838.5
MONITORING CONTRACTOR ADHERENCE TO DVBE PROGRAM GOALS		PCC 10115(3) MVC 999.5 (b) (4) (d)
PROGRAM GOAL MANDATES	Executive Order D-37-01 Executive Order S-02-06	Executive Order D-43-01
PROMPT PAYMENT	GC 927 et seq.	
REPORTING COMPLIANCE VIOLATIONS		MVC 999.9 CCR 1896.60 – 1896.67 CCR 1896.90 – 1896.98
SB/MB/DVBE ELIGIBILITY REQUIREMENTS	GC 14835 CCR Title 2, Section 1896- 1896.40	MVC Div. 4, Chapter 6, Article 6, Section 999-999.13 CCR Title 2 Section 1896.6 – 1896.95
SB/DVBE OPTION BID	GC 14838.5	GC 14838.5