

chair **John Chiang**  
member **Jerome E. Horton**  
member **Michael Cohen**



State of California  
**Franchise Tax Board**

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.
- 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.