

New Small Business Regulations, effective September 9, 2004

Preference requirements

The application of the 5% small business bidding preference is now extended to a non-small business that commits to subcontracting at least 25% of its net bid price to California certified small businesses and/or microbusinesses when the non-small business has:

- Been determined to be a responsible bidder and has submitted a timely responsive bid, and
 - Submitted a list of California certified small businesses it commits to subcontract with for a commercially useful function in the performance of the contract, and
 - Indicated in the bid eligibility for the preference.
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Terminology

Net bid price and evaluated bid price are two terms used to identify stages of price evaluation.

Net bid price	<p>The net bid price is the figure derived following adjustment of the bid amount. The bid amount can pertain to a line item or combination of line items, as specified in the solicitation. The solicitation identifies adjustments and can include, but may not be limited to, factors such as:</p> <ul style="list-style-type: none">• Correction of mathematical errors or omissions (at the state's discretion)• Calculations delineated in the solicitation for escalation, trade-ins, etc.• Application of allowable discounts <p>Note: Depending upon specific solicitation requirements, freight is either included in the net bid price or in the evaluated bid price. For solicitations that allow freight to be designated as a separately priced item, refer to the Purchasing Authority Manual for additional information.</p>
Evaluated bid price	<p>The evaluated bid price is the figure used to determine the low bidder selected for award.</p>

Basis for award Depending on the evaluation and award criteria as identified in a solicitation, application of the small business preference can apply to awards based on low price or awards based on factors other than price.

For those solicitations that specify a minimum number of points that must be received to be deemed responsive, the 5% preference cannot be used to achieve the minimum number of points.

(Note: The approach of specifying a minimum number of points is not allowed in all solicitations. Check requirements applicable to acquisitions conducted under approved purchasing authority or requirements for other types of acquisitions.)

Low price awards	<ul style="list-style-type: none"> • Preference calculation is performed for awards based on low price when: <ol style="list-style-type: none"> 1) The lowest responsive bid is from a responsible business whose bid is <u>not</u> eligible to receive the small business preference, and 2) There are one or more responsive bids from responsible bidders eligible to receive the 5% preference. • Following determination of the net bid price, the 5% calculation is made against the #1 ranked bid and the amount deducted from the bid of the business(es) eligible to receive the preference.
Point system awards	<ul style="list-style-type: none"> • Preference calculation is performed for awards based on an evaluation process that weighs factors other than price, together in a formula with price when: <ol style="list-style-type: none"> 1) The #1 ranked bid is from a responsible business whose bid is <u>not</u> eligible to receive the small business preference, and 2) There are one or more responsive bids from responsible bidders who are eligible to receive the 5% preference. • Following the application of points, the 5% calculation is made against the #1 ranked bid and the points applied to the bid of the business(es) eligible to receive the preference. Per Government Code Section 14838(b)(2) the preference points are calculated based on the total score.

Sanctions Various sanctions may be imposed on a business that obtains or retains certification as a small business on the basis of having furnished incorrect, incomplete or fraudulent information, and has been awarded one or more contracts as a result of the certification. For information or questions, contact the Department of General Services, Procurement Division, Office of Small Business and DVBE Certification (OSDC) at (916) 375-4936.

Sanctions include revoking the small business certification and declaring the business ineligible to transact business with the state for a specified period of time.

Ineligible businesses Evaluators must confirm that primes and subcontractors are eligible to transact business with the state. This is applicable whether or not the small business preference is claimed. Once established, the list of ineligible businesses will be accessible from the Small Business and DVBE Services web page (www.pd.dgs.ca.gov/smbus).

Subcontractor identification The solicitation must specify whether subcontractor information must be provided as part of the bid or subsequent to bid submission. If allowed subsequent to the bid due date, the solicitation must include language declaring that bids will be rejected if the information is not provided by a specified due date or time frame. The solicitation can also direct that only those in line for award will be contacted.

Information provided for each subcontractor must include the:

- Name of the business
- Address
- Phone number
- Description of the work to be performed, and
- The corresponding dollar amount or percentage of work for each subcontractor

Prime bidders must identify subcontractors in order for the state to:

- Confirm small business certification
 - Verify that subcontractors will be performing a commercially useful function in performance of the contract, and
 - Substantiate that a subcontractor is not an ineligible business
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**Verify
certifications**

Prior to calculation of the small business preference, the following steps must be taken:

Step	Action
1	For those bids that claim the preference, verify that the prime bidder(s) or subcontractor(s), as applicable, is currently a California certified small business in good standing. Note: Applications to become certified as a small business (pursuant to the California Code of Regulations Section 1896.14) must be submitted to OSDC no later than 5:00 p.m. on the bid due date.
2	For non-small businesses claiming the preference, calculate the subcontractor participation to verify that at least 25% of the net bid price will be performed by subcontractors that are certified small businesses.

Tie bids

In the event of a precise tie, award is made as follows:

If the tie is between a	Award to
Certified Small Business and certified DVBE who is a certified Small Business	Certified DVBE
Certified Small Business and a non-small business eligible for the small business preference	Certified Small Business

**Reporting
requirements**

Certified small business subcontractor participation shall be captured and included as part of the annual reporting requirement.
