

STATE OF CALIFORNIA DEPARTMENT OF GENERAL SERVICES	DATE ISSUED: <b>XXXX</b> , 2014
<h1 style="margin: 0;">Administrative Order 14-02</h1> <p>TO:  <b>Deputy Directors</b>  <b>Branch Chiefs</b>  <b>Office Chiefs</b>  <b>All DGS Supervisors and Managers</b></p> <p>SUBJECT:  <b>Contracting With Small Businesses, Microbusinesses and Disabled Veteran Business Enterprises</b></p>	EXPIRES: Until Rescinded
	REFERENCES: Governor's Executive Order S-02-06 Governor's Executive Order D-43-01 Military and Veterans Code § 999(a) Government Code § 14838.5 Government Code § 14838.7 Government Code § 14846(b) Government Code § 4525 et seq State Contracting Manual Vol. 2, C1.0
	SUPERSEDES: AO-09-02

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**Purpose** This Administrative Order informs Department of General Services (DGS) employees of an increase in the dollar level of contracts for Goods, Services, and IT Goods and Services that must be awarded to Small Businesses (SB), Microbusinesses (MB), Nonprofit Veteran Service Agencies (NVSA), and Disabled Veteran Business Enterprises (DVBE) whenever possible. Reference: [Chapter 212 Statutes of 2009 \(AB 31 \[Price\]\)](#)

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**Policy** DGS will consistently meet the annual statewide participation SB goal of at least 25 percent (Governor's Executive Order [EO] S-02-06). This goal includes MB and NVSA participation. DGS will also consistently meet the annual statewide participation goal of at least 3 percent for DVBE as mandated by EO D-43-01 and Military and Veterans Code Section 999(a).

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**Requirements** To ensure DGS consistently meets these SB and DVBE goals, DGS requires all procurements over \$100, and under \$250,000 for Goods, Services and IT Goods and Services, or under \$281,000<sup>1</sup> for Public Works, be awarded to SB, MB, NVSA, or DVBE. This requirement also applies to other state agencies when they request that DGS make a purchase on their behalf. The dollar caps of this requirement will automatically be adjusted to reflect all changes in the dollar thresholds allowed under Government Code Sections 14838.5 and 14838.7. The dollar thresholds include all charges including, but not limited to, sales and use tax, finance charges, postage, handling charges, and shipping charges.

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<sup>1</sup> The public works dollar threshold is established by the Department of Finance (Finance); DGS buyers will use the dollar amount as established by Finance.

**Requirements (Cont.)** Procurements that fall within the dollar range of this requirement that cannot be awarded to an SB, MB, NVSA, or DVBE, require an exemption or waiver from the Office of Business and Acquisition Services (OBAS) as described below.

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**Definitions** For purposes of this policy, “procurement” means any purchase or contract for DGS, as well as procurements conducted by DGS on behalf of its customers, and it applies regardless of the acquisition method, payment method or contract document used (STD. 65, 213, etc.).

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**Methods** As allowable by law and policy, whenever practicable and possible, all DGS buyers should act as SB and DVBE “Advocates.” This means buyers should be looking for opportunities to enhance both prime and subcontracting opportunities for SB, MB, NVSA, and DVBE for all procurement methods and dollar thresholds.

Below are some steps DGS buyers should take to increase participation levels:

- Inquire with existing suppliers/contractors to see if they are eligible for SB, MB, NVSA, or DVBE certification.
  - For procurements under \$5,000.00, solicit offers from SB, MB, NVSA or DVBEs using the Fair and Reasonable procurement method to award orders to SB, MB, NVSA, and DVBE. (See SCM volume 2, Section 4.C1.0).
  - For procurements between \$5,000 and \$250,000 (or \$281,000 for public works) use the informal quote method authorized by Government Code Section 14838.5 (Section 14838.7 for public works).
  - Use a Leveraged Procurement Agreement (LPA), including but not limited to the California Multiple Award Schedule (CMAS), if award can be made to an eligible certified SB, MB, NVSA, DVBE supplier/contractor.
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**SB/DVBE Waiver** There are instances when it is not feasible to contract with a certified SB, MB, NVSA, or DVBE. Examples include, but are not limited to:

- Industries where at least two SBs (including MBs and NVSAs) or two DVBEs are not available,
- Business needs dictate requirements that cannot be met by a SB, MB, NVSA, or DVBE, or
- DGS attempted but was unsuccessful in awarding an agreement to an SB, MB, NVSA, or DVBE.

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**SB/DVBE  
Waiver  
(cont.)**

For situations such as these, the [SB/DVBE waiver form](#) must be approved by the DGS OBAS SB/DVBE Advocate prior to issuing a contract to a company that is not a SB, MB, NVSA, or DVBE. Waivers must clearly document the steps taken and research completed to sufficiently justify an award to a business that is not a SB, MB, NVSA, or DVBE. The OBAS SB/DVBE Advocate will assist buyers and ensure waivers are complete. Individual buyers will determine when the waiver is submitted; however, buyers are advised to contact their SB/DVBE Advocate early (e.g. prior to releasing a solicitation) if the above methods are not feasible and the procurement approach may result in the award to a non SB, MB, NVSA, or DVBE. For recurring situations, the waiver may be issued for up to a year.

Waivers must be maintained in the procurement file which is subject to audit for compliance with this policy. Waivers must also be maintained by the OBAS for three years from the approval date.

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**Exempt  
Agreements**

The following agreements are exempt from the requirement to get a waiver: Interagency, federal government, local government, Joint Power Authorities, Prison Industry Authority, California State University/ University of California (or respective campuses), Concessions, Non-Competitive Bids, Revenue/Reimbursement contracts, Public Transit, Community-Based Rehabilitation, Statutorily Exempt, Policy Exempt, Emergency, Local Assistance/Subvention, and Proprietary contracts.

Government Code Section 4525 et seq. is the exclusive method for awarding architectural landscape, engineering, environmental, land surveying, or construction project management services. These agreements are exempt from the SB/DVBE waiver.

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**Resources**

The OBAS Advocate is available to assist buyers in meeting DGS's SB, MB, NVSA, and DVBE goals. A [webpage](#) on the OBAS Intranet site also provides additional assistance.

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**Questions/  
Contacts**

If you have questions, please contact the DGS Office of Business and Acquisition Services at (916) 375-4368, or [obashelp@dgs.ca.gov](mailto:obashelp@dgs.ca.gov)

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**Approval**

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Fred Klass, Director

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Date