

FACT SHEET

Evaluating DVBE and SB Participation Role of OBEO, Contract Evaluation Unit May 2013

The California Department of Transportation (Caltrans), Office of Business and Economic Opportunity (OBEO), Contract Evaluation Unit (CEU), is responsible for evaluating all Caltrans state funded contracts and is responsible for counting Disabled Veteran Business Enterprise (DVBE) participation, and small business participation (SB) towards contract goals and bid incentives according to state law.

Bidder's Responsibility – For Meeting DVBE Requirements	
<p>Refer to the Special Provisions of the specific contract you are bidding on for your responsibilities. Contracts are advertised on the Office Engineer's (OE) website at http://dot.ca.gov/hq/esc/oe/weekly_ads/index.php and the Division of Procurement and Contracts' (DPAC) website at http://caltrans-opac.ca.gov/contract.htm.</p>	
Contract Evaluation Unit's Responsibility – Counting DVBE and SB Participation	
Step 1	A contract is received from Office Engineer (OE) or the Division of Procurement and Contracts (DPAC) with a DVBE summary or bidder declaration that lists DVBEs for credit.
Step 2	<p>Review the CALTRANS Certified DVBE Summary form from the prime contractor to:</p> <ul style="list-style-type: none"> • ensure that the DVBEs/SBs are certified by checking the Department of General Services database (<i>If the DVBE is not certified their participation will not be counted.</i>) • ensure that the DVBEs/SBs possess the correct license type (if applicable) for the type of work they are listed to perform http://www.bidsync.com/DPXBisCASB? (<i>If a DVBE does not have the correct license or industry certification required to perform the work (i.e. hazardous materials, storm water plan developer) the dollar amount claimed for credit will not count.</i>) • verify the dollar amount claimed for credit is accurate <ul style="list-style-type: none"> ◦ amount claimed for credit on DVBE Summary form or Non Small Business Preference form is consistent with the written confirmation (quote) from the DVBE/SB.** ◦ amount claimed for credit is consistent with the prime contractor's bid and subcontractor listing <p>Written confirmation (quotes) from the DVBEs/SBs are reviewed to verify if the DVBEs/SBs are committed to do the work on the DVBE Summary form or Non Small Business Preference form.**</p> <p>**Important Note: Rate sheets will not be accepted in lieu of written confirmation (quotes). This determination is based only on information timely submitted with the bid.</p>
Step 3	<p>Counting DVBE participation: DVBE participation is "counted" only where it is demonstrated that a certified DVBE possesses the proper license(s) and will be actively participating on the contract. CEU will count DVBE participation as follows:</p> <ul style="list-style-type: none"> • The portion of a construction contract that is performed by the DVBE's own forces is counted. • DVBE's participation will not be counted if the DVBE is not certified at the time of bid or if a certified DVBE does not possess the required license or industry certification. • The method for counting trucking towards the DVBE goal requires the following additional documentation: motor carrier permit, truck title, registration, and proof of insurance, trailer or tanker registration, bills of lading, sub-hauling agreements, existing commitments of trucking on other jobs, and subcontract specific information (e.g., type of material hauled, number of trucks/trailers/tankers, load capacity, distance traveled, and schedule). Truckers need to own at least one operable and insured truck. • DVBE trucking firms who sublease to non-DVBE trucking firms or non-DVBE owner operators receive credit for the transportation arrangement or broker fees <u>only</u>. <p>Important Note: There may be times when further clarification of commitment is requested for other types of work.</p>
Step 4	<p>If the DVBE goal is not met, the bidder is determined to be non-responsive.</p> <p>Important Note: The steps above are not all inclusive. Other and additional steps may be performed as a part of the the contract evaluation process.</p>
Step 5	The contracts are returned to OE or DPAC, whichever is applicable. OBEO does not apply the DVBE/SB bid incentive to bid rankings.

FACT SHEET

Monitoring DVBE Participation During Construction

May 2013

Role of the Division of Construction

California Department of Transportation (Caltrans) resident engineers and inspectors monitor the contract work to ensure the DVBEs/SBs listed on the DVBE Summary form or Non Small Business Preference form perform the items of work specified at the time of bid opening and that no improper substitutions occur. Monitoring includes documenting the work the DVBEs perform by completing inspection reports. Resident engineers and inspectors ensure that all DVBEs are performing a commercially useful function (CUF).

CUF is a matter of contract compliance that ensures the dollars counted towards the DVBE goal, the DVBE bid incentive, and the SB bid incentive are merited. If CUF is not properly evaluated, there is an increased potential for passing funds through DVBEs and SBs thereby subverting the intention of the respective programs.

The California Military and Veterans Code, Section 999(b)(5) states that a DVBE is deemed to perform a “commercially useful function” if it does all of the following:

- Is responsible for the execution of a distinct element of the work of the contract.
- Carries out the obligation by actually performing, managing, or supervising the work involved.
- Performs work that is normal for its business services and function.
- Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal practices.

A contractor, subcontractor, or supplier will not be considered to perform a “commercially useful function” if the contractor’s, subcontractor’s, or supplier’s role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of a disabled veteran business enterprise participation.”

To perform a commercially useful function, the DVBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating a price, determining quality and quantity, ordering the material, and installing where applicable and paying for the material itself.

To ensure DVBEs are performing a CUF, the resident engineer or inspector documents the DVBE’s work in inspection reports and reviews additional documentation that verifies the DVBE’s participation. Some examples of the types of documents are:

- certified payroll records
- paid supplier invoices
- monthly trucking verification reports
- supplier bills of lading or purchase requests
- leases

Service and Architect and Engineering Contracts

Monitoring DVBE participation, including whether a DVBE is performing a CUF, are subject to the same guidelines as stated above.

For further details, please refer to Military and Veterans Code, Section 999 to 999.13