

DVBE COMPLIANCE FORMS

Disabled Veteran Business Enterprise

Participation Goal Requirement

I. STATEMENT OF DVBE PARTICIPATION GOAL REQUIREMENT

- A. Education Code sections 17076.11, 100615, 100815, 101011, and 101110 require that the Huntington Beach City School District (“DISTRICT”) establish a participation goal for Disabled Veteran Business Enterprise (“DVBE”) of at least three percent (3%) per year of the overall dollar amount of funds allocated to DISTRICT by the State Allocation Board and expended by DISTRICT for construction and modernization projects.
- B. “Disabled veteran business enterprise contractor, subcontractor, or supplier” means any person or entity that has been certified by the Department of General Services’ Office of Small Business and Disabled Veteran Business Enterprise Services and that performs a “commercially useful function,” in providing services or goods that contribute to the fulfillment of the contract requirements.
1. A person or an entity is deemed to perform a “commercially useful function” if a person or entity does all of the following:
 - (a) Is responsible for the execution of a distinct element of the work of the contract.
 - (b) Carries out the obligation by actually performing, managing, or supervising the work involved.
 - (c) Performs work that is normal for its business services and functions.
 - (d) Is responsible, with respect to products, inventories, materials, and supplies required for the contract, for negotiating price, determining quality and quantity, ordering, installing, if applicable, and making payment.
 - (e) Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.
 2. 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 disabled veteran business enterprise participation.

- C. “Disabled veteran” means a veteran of the military, naval, or air service of the United States, including, but not limited to, the Philippine Commonwealth Army, the Regular Scouts, “Old Scouts,” and the Special Philippine Scouts, “New Scouts,” who has at least a 10-percent service-connected disability and who is domiciled in the State of California.
- D. “Disabled veteran business enterprise” means a business certified by the Department of General Services’ Office of Small Business and Disabled Veteran Business Enterprise Services as meeting all of the following requirements:
 - 1. It is a sole proprietorship at least 51 percent owned by one or more disabled veterans or, in the case of a publicly owned business, at least 51 percent of its stock is unconditionally owned by one or more disabled veterans; a subsidiary that is wholly owned by a parent corporation, but only if at least 51 percent of the voting stock of the parent corporation is unconditionally owned by one or more disabled veterans; or a joint venture in which at least 51 percent of the joint venture’s management, control, and earnings are held by one or more disabled veterans.
 - 2. The management and control of the daily business operations are by one or more disabled veterans. The disabled veterans who exercise management and control are not required to be the same disabled veterans as the owners of the business.
 - 3. It is a sole proprietorship, corporation, or partnership with its home office located in the United States, which is not a branch or subsidiary of a foreign corporation, foreign firm, or other foreign-based business.
- E. Pursuant to Public Contract Code section 10115.9, a limited liability company may be certified as a disabled veteran business enterprise if the limited liability company is wholly owned by one or more disabled veterans.

II. SATISFACTION OF THE DVBE PARTICIPATION GOAL REQUIREMENT

A. Goal Attainment and/or “Good Faith Effort”

In order to satisfy and be responsive to the three percent (3%) participation goal, Bidder is encouraged and expected to exercise due diligence to either meet the DVBE Participation Goal or document a “Good Faith Effort” to meet that goal as follows:

1. DVBE Participation Goal Attainment

The three percent (3%) DVBE participation Goal is attained when:

- (a) Bidder is not a DVBE and is committed to use DVBEs for not less than three percent (3%) of the Contract dollar amount; or

- (b) Bidder is a DVBE and committed to performing not less than three percent (3%) of the Contract dollar amount with its own forces or in combination with those of other DVBEs.

2. Good Faith Effort

A “Good Faith Effort” to meet the DVBE goal is achieved by doing **all** of the following five items **prior** to the final bid due date. Each of these items should be satisfied for each contract bid. Bidder should:

- (a) Contact the Facilities Division to identify potential DVBEs for this bid. This telephone call will initiate the provision of information to Bidder;
- (b) Contact other state and federal government agencies and local DVBE organizations to identify potential DVBEs for the Contract;
- (c) Advertise in trade paper and papers focusing on DVBEs. Advertisement should appear in publications at least fourteen (14) calendar days prior to the bid issue date, unless time limits imposed by DISTRICT do not permit that advertising;
- (d) Send solicitation to potential DVBE subcontractors and suppliers for the Contract with sufficient lead time to fully entertain and consider responding bids. Sufficient lead time is at least fourteen (14) calendar days prior to the bid due date, unless time limits imposed by DISTRICT do not permit that lead time; and
- (e) Consider responding DVBEs for participation in the Contract.

III. DVBE PARTICIPATION GOAL DOCUMENTATION REQUIREMENTS

A. General

Bidder must document its effort to either meet the DVBE participation goal requirement or make a good faith effort to meet it.

Bidders who propose goal attainment are encouraged to submit documentation for making a “Good Faith Effort” also.

Bidder’s efforts to meet the Contract DVBE Participation Goal and/or make a “Good Faith Effort” to meet the goal must be sincere and the documentation must be sufficient to reasonably demonstrate that sincerity to DISTRICT. Final determination of DVBE Participation Goal attainment or a “Good Faith Effort” by Bidder shall be at DISTRICT’s sole discretion.

B. Required Documentation

The DVBE documentation forms that must be completed are as follows and instructions for completing the required forms correctly are included to assist the Bidder. All applicable information from Bidder's "DVBE Participation Goal Compliance" shall be included on the forms described below.

1. DVBE Transmittal Form

Bidders must fill out and attach the DVBE Transmittal Form as a cover sheet to the required documents and submit it and the additional required documentation within (a) five (5) calendar days following the date in which bids for the Project are received, opened and the apparent low bidder(s) declared, or (b) two (2) calendar days prior to the scheduled award of the Project, whichever is sooner.

2. Summary of Disabled Veteran Owned Business Participation (Attachment 1)

Whether DVBE Participation Goal Attainment or the "Good Faith Effort" alternative is chosen, Attachment 1, Summary of Disabled Veteran Owned Business Participation, must be completed showing the type of work and company proposed for DVBE participation, their Subcontractors (if any), and other related information. If no participation is achieved, Bidder is to state "N/A" or "None" on the first line of the form. Complete the form providing the information as follows:

- (a) **Company Name** - list the name of the company proposed for DVBE participation. If CONTRACTOR is a DVBE, its name must also be listed to receive participation credit.
- (b) **Nature of Work** - identify the proposed work or service to be provided by the listed company.
- (c) **Contracting With** - list the name of the department or company with which the company listed is contracting.
- (d) **TIER** - the contracting tier should be indicated with the following level designations:
 - 0 = CONTRACTOR;
 - 1 = First tier Subcontractor/supplier;
 - 2 = Second tier Subcontractor/supplier of first tier Subcontractor/supplier;
 - 3 = Third tier Subcontractor/supplier of second tier Subcontractor/supplier; etc.

- (e) **Claimed DVBE Value** - the total dollar amount of the value claimed by a DVBE.
- (f) **Percentage of Contract** - compute the percentage (%) the claimed DVBE value is of the total Contract dollar amount.
- (g) **DVBE Certification** - Bidder must include one copy of the DVBE certification letter from the Office of Small Business Services and Certification Resources for each DVBE firm listed on the Summary of Disabled Veteran Owned Business Participation.

3. Bidder's Certification (Attachment 2)

Bidder must sign and include the **Bidder's Certification**, certifying that each firm listed on the Summary of Disabled Veteran Owned Business Participation (Attachment 1) complied with the legal definition of DVBE.

4. Documentation of Good Faith Effort (Attachment 3) (3 Pages)

Bidders must submit documentation to support their contacts with DISTRICT, other state and federal governmental agencies, and other organizations that helped identify or provided a list of interested DVBEs for the Contract. A list of dates, times (if known), organizations contacted, and contact names and phone numbers must be provided to corroborate these contacts.

C. Time Frame for Submitting Documentation

The DVBE participation documentation must be submitted within (a) five (5) calendar days following the date in which bids for the Project are received, opened and the apparent low bidder(s) declared or (b) two (2) calendar days prior to the scheduled award of the Project whichever is sooner. Failure to timely submit full and accurate documentation may result in the rejection of the bid as being nonresponsive.

IV. USE OF PROPOSED DVBE

If awarded the Contract, the successful Bidder must use the DVBE Subcontractors and/or suppliers proposed in its bid proposal unless it has required substitution and has received approval of DISTRICT in compliance with the Subletting and Subcontracting Fair Practices Act.

Failure to adhere to at least the DVBE participation proposed by the successful Bidder may be cause for Contract termination and recovery of damages under the rights and remedies due DISTRICT under the default section of the Contract.

V. ADDITIONAL DVBE INFORMATION SOURCES

A. For more information regarding DVBE certification, copies of directories or for general DVBE information, contact:

1. State Department of General Services
Office of Small Business and Disabled Veteran Business Enterprise Certification

Physical Location

707 3rd Street, 1st Floor, Room 400
West Sacramento, CA 95605

Mailing Address

P.O. Box 989052
West Sacramento, CA 95798-9052
(800) 559-5529 or (916) 375-4940

2. DVBE information via the Internet at
<http://www.pd.dgs.ca.gov/smbus/default.htm>

3. Office of Public School Construction
<http://www.documents.dgs.ca.gov/OPSC/PDF-Handbooks/dvbe-handbook.pdf>

VI. CONTRACT AUDITS

CONTRACTOR agrees that DISTRICT or its designee will have the right to obtain, review, and copy all records pertaining to performance of the Contract, including but not limited to reports of payments made to Subcontractors during the term of the Contract. CONTRACTOR agrees to provide DISTRICT or its designee with any relevant information requested and shall permit DISTRICT or its designee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. CONTRACTOR further agrees to maintain such records for a period of three (3) years after final payment under the Contract.

VII. FEDERAL INCOME TAX RETURNS

A. A disabled veteran business enterprise, and each owner thereof, shall at the time of certification, submit to the Department of General Services' Office of Small Business and Disabled Veteran Business Enterprise Services complete copies of the enterprise's federal income tax return for the three (3) previous tax years.

B. A disabled veteran business enterprise, and each owner thereof, shall submit to the Department of General Services Office of Small Business and Disabled

Veteran Business Enterprise Services complete copies of the enterprise's federal income tax returns that have a postcertification due date, on or before the due date, including extensions.

- C.** A disabled veteran business enterprise that, and each owner thereof who, has not submitted to the Department of General Services Office of Small Business and Disabled Veteran Business Enterprise Services complete copies of the enterprise's federal income tax returns for the three (3) tax years preceding certification nor for each postcertification tax year for which a return was required to be filed, shall have 90 days to submit those returns.
- D.** A disabled business enterprise that fails to comply with any provision of this subdivision shall be prohibited from participating in any DISTRICT contract subject to DVBE compliance until the disabled veteran business enterprise complies with the provisions of the subdivision. Funds expended involving a disabled veteran business enterprise during any period in which that enterprise is not in compliance with the provisions of this subdivision shall not be credited toward the awarding department's three percent (3%) goal.
- E.** A disabled veteran business enterprise that fails to maintain the certification requirements shall immediately notify the DISTRICT and the Department of General Services Office of Small Business and Disabled Veteran Business Enterprise Services of that failure by filing a notice of failure that states with particularity each requirement the disabled veteran business enterprise has failed to maintain.

Disabled Veteran Business Enterprise Participation Goal Requirement

DVBE Transmittal Form

The DVBE Transmittal Form is to be attached and used as a cover sheet for the required DVBE documentation that must be submitted within (a) five (5) calendar days following the date in which bids for the Project are received opened and the apparent low bidder declared or (b) two (2) calendar days prior to the scheduled award of the Project, whichever is sooner.

Bid Number: _____

Project Name: _____

Name of CONTRACTOR: _____

Please check off the following to insure you have included them in your documentation:

- _____ Attachment 1: Summary of DVBE Participation
- _____ Attachment 2: Bidder's Certification of DVBE Status of Subcontractors and Suppliers
- _____ Attachment 3 (3 pages): Documentation of Good Faith Effort
- _____ Attachment of Any Additional Supporting Documentation
- _____ Attachment 4: Contractor's Certification of Achievement of Disabled Veteran Business Enterprise Participation Goal (To be submitted at the completion of the Work by CONTRACTOR if its DVBE Compliance Forms specify that CONTRACTOR will meet DISTRICT's DVBE participation goal)

SUMMARY OF DISABLED VETERAN OWNED BUSINESS PARTICIPATION

DVBE COMPANY NAME	NATURE OF WORK	CONTRACTING WITH	TIER	CLAIMED DVBE VALUE \$	PERCENTAGE OF CONTRACT (%)	OSMB CERTIFICATION

I declare under penalty of perjury, under the laws of the State of California, that the information herein is true and correct to the best of my knowledge.

Executed on _____, at _____ of _____
 (Date) (City) (State)

 Signature of Contractor or Authorized Agent Project Name Project Number

 Printed Name Firm name (_____) Telephone

BIDDER'S CERTIFICATION
DISABLED VETERAN BUSINESS ENTERPRISE
STATUS OF SUBCONTRACTORS AND SUPPLIERS

I hereby certify that I have made a diligent effort to ascertain the facts with regard to the representations made herein and, to the best of my knowledge and belief, each firm set forth in this bid as a disabled veteran business enterprise complies with the relevant definition set forth in law. In making this certification, I am aware of Section 12650 et seq. of the Government Code providing for the imposition of treble damages for making false claims against the State, Section 10115.10 of the Public Contract Code making it a crime to intentionally make an untrue statement in this certificate, and the provisions of Section 999.9 of the Military and Veterans Code.

Date

Signature of Authorized Agent

Title

DOCUMENTATION OF GOOD FAITH EFFORT

A. List below the contacts made with DISTRICT, other state **and** federal agencies **and** DVBE organizations in an effort to identify potential DVBEs for participation in the Contract. Include dates, times, contact names and phone numbers.

<u>DATE/TIME</u>	<u>AGENCY/ORGANIZATION</u>	<u>CONTACT/PHONE NO.</u>
	_____ UNIFIED	
	SCHOOL DISTRICT	
	<u>STATE AGENCIES</u>	

	<u>FEDERAL AGENCIES</u>	

	<u>LOCAL AGENCIES/ORGANIZATIONS</u>	

B. CONTRACTOR must list trade papers **and** other publications focusing on DVBEs in which CONTRACTOR advertised for participation in the Contract. Include the date of advertisement and attach copies of such advertisements.

<u>Name of Trade/Focus Publications</u>	<u>Dates of Advertisement</u>
_____	_____
_____	_____
_____	_____

CONTRACTOR Name: _____

DOCUMENTATION OF GOOD FAITH EFFORT

C. List potential DVBEs that Bidder solicited for participation in the Contact along with the dates the solicitations were sent. CONTRACTOR must attach a sample of the solicitation sent to DVBE firms. If phone contact was made, please describe the services or products for which you solicited participation.

	<u>DVBE Firm</u>	<u>Date of Mailing</u>	<u>Date of Telephone Contact</u>	<u>Results Selected/Reason for Non-Selection</u>
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				

D. DVBE Solicitations

Solicitation Sample:

Bidder must attach a sample of the solicitation sent to DVBE firms. If phone contact was made, document conversation: date, time, contact person, and business opportunities discussed.

DOCUMENTATION OF GOOD FAITH EFFORT

Identification of (1) all DVBEs who submitted bids or quotations, (2) nature of work, supplies or services offered which were not accepted, (3) dollar amounts of the DVBEs bids not accepted, (4) Subcontractors and/or suppliers who were used instead of the DVBEs, (5) dollar amounts of these Subcontractors' and/or suppliers' bids, and (6) the reason for CONTRACTOR not accepting the DVBE's bid. Use additional sheets if necessary.

NAME OF DVBE (1)	NATURE OF WORK (2)	DVBE BIDS (\$) (3)	SUBCONTRACTOR/SUPPLIER TO BE USED (4)	BID AMOUNT ACCEPTED (5)	REASON NOT ACCEPTED (6)

OFFICE USE ONLY

Determination

_____ Met Goals

_____ Did exert good faith effort

_____ Did not exert good faith effort

Signed: _____

Date: _____

**CONTRACTOR’S CERTIFICATION OF
ACHIEVEMENT OF DISABLED VETERAN BUSINESS ENTERPRISE
PARTICIPATION GOAL**

I hereby certify that I have met DISTRICT’s DVBE three percent (3%) participation goal for the _____ project (“Project”) and hereby provide the following information for the Project:

1. The total amount CONTRACTOR received under the Contract

2. The name and address of the DVBE that participated in the performance of the Contract

3. The amount each DVBE received from CONTRACTOR

4. All payments under the Contract have been made to the DVBEs.

CONTRACTOR Name: _____

Date

Signature of Authorized Agent

Print Name of Authorized Agent

Title