
Commercially Useful Function

Departmental Policy¹

Department Name
Department Advocate
Advocate Phone #

SAMPLE

¹ This is NOT a Statewide Policy. It is a sample of what could be included when creating an internal policies & procedures manual.

Commercially Useful Function (CUF) Requirements

The Department of General Services (DGS), Procurement Division (PD), Office of Small Business and Disabled Veteran Business Enterprise Services (OSDS) is the entity responsible for statewide implementation of Small Business and DVBE program regulations resulting from legislative mandates passed into law. Under Government Code and Military and Veterans Code any California certified Small Business (SB), Microbusiness (Micro), Small Business for the purpose of Public Works (SB-PW), Disabled Veteran Business Enterprise (DVBE) or Nonprofit Veteran Service Agency (NVSA) suppliers doing business with the state must perform a Commercially Useful Function (CUF).

Subsequently, each department's buyer is responsible for obtaining the supporting information and documentation including, but not limited to, the Bidder Declaration, Confirmation Letter/Form, (as described in the DVBE Program Requirements), Certification of CUF Compliance (if applicable), DGS PD 843, DVBE Declarations Form (if applicable) and verification of Current OSDS certification(s) whenever a bidder claims SB or DVBE participation. This includes the prime bidder and/or any SB/Micro, SB-PW, DVBE or NVSA subcontractors contracting to perform part of the prime's contract. CUF must be established prior to making the final contract or purchase order award.

AUTHORITIES

- Military and Veterans Code (MVC) Section 999(b)(5)(B) and 999.10(a)(3)
- Government Code (GC) 14837(d)(4)(A)
- Title II California Code of Regulations, Sections 1896.15 and 1896.71

COMMERCIALLY USEFUL FUNCTION

A California certified SB/Micro, SB-PW, DVBE or NVSA business must be deemed to perform a Commercially Useful Function (CUF) by meeting **ALL** of the following CUF requirements for Contract/Purchase Order (PO) award consideration:

1. Is responsible for the execution of a distinct element of the work of the contract (including the supplying of services and goods).
2. Carries out its obligation by actually performing, managing, or supervising the work involved.
3. Performs work that is normal for its business services and functions.
4. 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.
5. Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

CUF ANALYSIS

CUF analysis is performed by the buyers with assistance from the Departments SB/DVBE Advocate, as needed. CUF is determined during the bid evaluation process for each SB, Micro, SB-PW, DVBE or NVSA prime or subcontractor listed in the bid, or quote. All bid responses that identify a SB, Micro, SB-PW, DVBE or NVSA prime or subcontractor must receive a positive evaluation for CUF to qualify for an incentive or

Commercially Useful Function (CUF) Requirements

preference. CUF information is obtained when suppliers complete and return the following documents:

1. Bidder Declaration – DGS PD 05-105 (written) or DGS PD 05-106 (verbal)
 - This form is to be submitted in response to a solicitation whenever any other person, firm, corporation, or organization will be contracting to perform part of the prime's contract. If any of these subcontractors are certified California SB, Micro, SB-PW, DVBE or NVSA they must be evaluated for CUF.

Note: Any prime bidder or subcontractor that is not a certified California SB, Micro, SB-PW, DVBE or NVSA does NOT need to meet CUF but must still be eligible to conduct business with the state.
2. Confirmation Letter/Form
 - Per the DVBE Program Requirements included with the bid documents identifying the scope of work, work the subcontractor is to perform, rate and conditions of payment, etc.
3. Certification of CUF compliance
 - Per MVC 999.10(a)(3) to be included with the bid documents is a signed statement under penalty of perjury that the work performed by subcontractors is CUF compliant.
4. Standard 843, DVBE Declarations
 - A completed Standard Form 843, DVBE Declaration must also be completed and should be submitted with the bid response for any certified DVBE (prime or subcontractor).

CUF EVALUATIONS AND FORMS

During an evaluation to determine CUF compliance, if the solicitation allows, the buyer or contract analyst may need to:

- Seek clarification through written request to the bidder.
- Perform additional research or market analysis.
- Obtain a copy of the SB or DVBE OSDS certification database search results.

Use all the information received to determine if the bidder is compliant to the five (5) CUF requirements as identified on the [Commercially Useful Function \(CUF\) Evaluation Determination Worksheet](#). If there are uncertainties or you have difficulty determining the validity of CUF for a particular purchase or contract, or on any of the five criteria, the buyer can refer to the [CUF Frequently Asked Questions](#) or contact your department's [SB/DVBE Advocate](#) for assistance.

If it is determined that a Supplier is not CUF compliant, the bid may be rejected depending on whether there was a participation requirement written in the bid documents.

FILE DOCUMENTATION

Buyers are required to document in the procurement file that all CUF related documentation has been submitted by the bidder (Bidders Declaration, Confirmation Letter(s)/Form(s), Certification of CUF Compliance, STD 843 Declaration form). CUF

Commercially Useful Function (CUF) Requirements

evaluation information and documentation (forms, internet research, CA certifications, contractor-provided information, e-mail correspondence or telephone notes, etc.) become part of the bid evaluation and must be included in the procurement file for each transaction for audit purposes. When circumstances warrant it, CUF may be reevaluated after contract award.

FAILURE TO SUBMIT BIDDER OR DVBE DECLARATION DOCUMENTS

Where required, if the Bidder fails to submit the Bidder Declaration (DGS PD 05-105 or 05-106), Confirmation Letter/Form (if applicable), Certification of CUF Compliance (if applicable) or the DVBE Declaration STD 843 (if applicable), the solicitation cannot receive a positive evaluation for CUF and will not qualify for an incentive or preference.

If a bidder fails to submit the Bidder Declaration, Confirmation Letter/Form (if applicable), Certification of CUF Compliance (if applicable) or DVBE Declaration buyers must document this fact in the procurement file. Include the buyer's name, date, time, Supplier name, SB/DVBE certification number, address and provide a brief synopsis of why the Bidder failed to submit any of the documents.

As a courtesy, notify your department's SB/DVBE Advocate if the low bidder or proposer, or the high point proposer results in a negative CUF evaluation. Forward all CUF documentation to the SB/DVBE Advocate for additional review.

A Department's SB/DVBE Advocate may work directly with the Bidder to ensure they are CUF compliant.