

Disabled Veteran Business Enterprise (DVBE)

Subcontracting Report

Frequently Asked Questions

1. What authority requires reporting on DVBE subcontracting activities and defines what needs to be reported?

Military and Veterans Code Sections [999.5\(d\)](#), [999.55](#) and [999.7](#), Government Code Section [14841](#), and California Code of Regulations Section [1896.78 \(e\)](#) requires that upon completion of an awarded contract a Prime contractor that certified they were subcontracting with a Disabled Veteran Business Enterprise (DVBE) shall provide detailed information regarding participation. This includes all contracts with DVBE requirements awarded no earlier than July 1, 2014.

2. Where can I find more information about reporting?

Training tools, forms and instructions can be found at the following link under *DVBE Subcontracting Forms & Instructions*: [File a DVBE Subcontracting Report](#)

3. Where can I find more information about the DVBE requirement in the state contracting manual?

State Contracting Manual (SCM), Volume II - [Prime Contractor's Certification on DVBE Subcontractors and Payment Withhold, Chapter 12, Section 1203.1](#)

4. When is the STD 810D due and how is the report submitted?

The State Department's Contractor DVBE Subcontracting Consolidation Report [DGS PD 810D](#) is due annually by November 1st. The preferred method for submission is in PDF format by email to OSDSReports@dgs.ca.gov.

5. What is the difference between the STD 817 and the DGS PD 810D?

- The [STD 817](#) (Prime Contractor's Certification - DVBE Subcontractor Report), formerly DGS PD 810P is the form that is sent to prime contractors on contracts or procurements (regardless of whether the agreement is executed as a purchase order or contract) that include DVBE participation/subcontractors. *Prime contractors must complete and return the form to certify to awarding departments that payments to DVBE(s) were made and provide the DVBE subcontractor payment details.*
- The [DGS PD 810D](#) (State Department's Contractor DVBE Subcontracting Consolidation Report) is the form that departments use to consolidate the information submitted by prime contractors on the STD 817. The 810D is the final report that is submitted to OSDS by November 1.

Note: Important! All departments must submit their Form DGS PD 810D to OSDS, even if they did not receive STD. 817 from prime contractors.

Disabled Veteran Business Enterprise (DVBE) Subcontracting Report Frequently Asked Questions

6. In what cases should we send a STD 817 to prime contractors?

Departments should send the STD 817 to a contractor when they are the prime on any contracts or procurements (regardless of whether the agreement is executed as purchase order or contract) that include DVBE participation/subcontractors, awarded on or after January 1, 2021.

7. What if our department did not receive any STD 817 forms from prime contractors or did not have any contracts or procurements that included DVBE subcontractors?

A department must still submit the DGS PD 810D as follows:

- If no STD 817 received - Fill out a line for each STD 817 sent to a prime contractor if received or not.
- If no contracts with DVBE participation meet the reporting criteria - - Enter "0" in the Total Number of Completed Contracts field and in the Comments section departments should include "nothing to report."

Note: Important! All departments must submit their Form DGS PD 810D to OSDS.

8. Is a wet signature required on the forms?

No, the revised 2021 forms allow for electronic signatures.

9. Do we need to collect information from prime contractors on Leveraged Procurement Agreements (LPA) contracts?

Yes, based on the new legislative requirements, now departments are required to report on the following LPAs:

- LPAs that require a department Request for Offer (RFO)
 - California Multiple Award Schedules (CMAS), Master Service Agreements (MSA), Cooperative Agreements, and Software Licensing Program (SLP)
 - [MSA Certification of Payment Options](#)
 - [SLP certification of payment Options](#)
- Statewide contracts for big ticket items-requiring build out for heavy equipment, such as fire trucks, helicopters, etc.

Note: Always Follow the user instructions for LPAs.

Disabled Veteran Business Enterprise (DVBE) Subcontracting Report Frequently Asked Questions

10. How are the other LPAs reported?

All other LPA contracts that committed to using DVBE subcontracting will be reported by DGS:

- PD captures DVBE subcontracting information throughout the term of the contract.
- DGS will use the information to provide an opportunity to cure, if needed.

Note: Always Follow the user instructions for LPAs.

11. How should I count contracts to fill the Total Number of Completed Contracts field?

In the Total Number of Completed Contracts' field, enter a count of all the contracts that met the criteria to send a STD 817, and which were completed (final payment made) during the reporting fiscal year.

12. What if the final payment was not completed before the end of the reporting fiscal year?

If the final payment is not issued until after the end of the reporting fiscal year; that contract or procurement and its STD 817 should be reported in the following year's report.

13. Where can I find the Statewide Advocates Directory?

The Statewide Advocates Directory can be found at: [Find a SB/DVBE Advocate](#)

14. What is the best contact info for DVBE related questions?

For SB/DVBE Reporting Questions email: osdsreport@dgs.ca.gov

For DVBE Substitutions and other Compliance Questions email:
SB.DVBECompliance@dgs.ca.gov

For SB/DVBE program general questions email: OSDSHelp@dgs.ca.gov

15. How do I file a complaint with OSDS about DVBE program abuse?

If you have a complaint that you would like to report regarding the SB/DVBE Program or a certified firm, email: SB.DVBECompliance@dgs.ca.gov

For more information go to [File Complaint SB/DVBE Program](#).

Disabled Veteran Business Enterprise (DVBE)

Subcontracting Report

Frequently Asked Questions

16. How do we know that the Prime contractor actually paid the subcontractor?

You can request proof of payments. ([MVC 999.5](#))

17. Are there any examples of cure letters? Or sample procedures on how to send these out?

The broadcast bulletin did not specify any changes in departments current processes regarding cure letters for withholds. Departments are to continue using their existing processes for notifying vendors when the invoice is being disputed and payments are being held. Many departments utilize the STD 209 - Invoice Dispute Notification form. <http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std209.pdf>

18. The SCM states that it is the Contract Manager's responsibility to have records related to the Prime Contractor's Certification (STD 817). Could you confirm this should be in the Contract Administrator's file or any other location as well?

The SCM tried to use the most general known name of the procurement official that monitors the contract for compliance. Each department will already have procedures in place regarding responsibilities for contract management. Continue to follow those procedures. The documentation should be held in the procurement file and anywhere else those types of records are stored for contract compliance.

19. Will this new legislation effect only new agreements or would we need to go back and amend active agreements as well?

As this is a mandated law, all contracts created on or by January 1, 2021, were to have this requirement in them. This should not be a problem for new contracts or contracts that are being amended. For existing contracts, the department will need to weigh the pros and cons of amended in progress contracts with the legal ramifications that can occur. Please speak to your legal department about this process.

20. Will a contractor be held further accountable with an established trend of non-compliance?

The withholding becomes a permanent deduction if after the department sends a cure notice to the prime contractor allowing the 15-30 days. The department will use existing processes to withhold the monies. Contact your accounting office for processes of non-payment to contractors.

Disabled Veteran Business Enterprise (DVBE) Subcontracting Report Frequently Asked Questions

21. Departments only have 45 days to pay the contractor without penalty (15 days for SCO). Holding the invoice to allow the cure notice to go out for 15-30 days could put departments into penalties. Is there anything that allows us to hold the invoice without penalties?

You will utilize your current process that allows for stop payments for non-compliance. Because this is a statute, it is outside the prompt payment process. You need to promptly notify the prime contractor upon completion of contract to submit the STD 817. The cure notice can be sent at that time to allow 15-30 days for submission.

22. Are vendors utilizing LPA agreements required to submit an STD 817? We have been told by a previous vendor utilizing an LPA agreement that they do not submit the form and report directly to DGS.

Refer to Questions 9 and 10.

23. What if there was not a requirement or incentive to have a sub-contractor?

Do not report contracts/POs without DVBE subcontractors on the Form 810 D.

24. Are we expected to go back to 1/1/21 and filter through all the LPAs we have used and look at the User Instructions and send STD. 817s to those vendors? How do we know if the LPA vendor submitted a STD. 817 already to DGS?

Currently there are no statewide contracts requiring the new process, but it applies to LPAs requiring further competition (CMAS, Masters, etc.). Refer to Questions 9 and 10.

25. Will DGS complete the STD 817 requirements for contracts such as paper? But, what about the other LPAs? Cooperative vs. Statewide?

Refer to Questions 9 and 10.

26. Specific to service contracts that were executed or amended on or after 1/1/21 and are still active do those agreements need to be amended to include language regarding this new requirement? Why or why not?

Yes, per the new legislative requirements, any contract with DVBE subcontractor participation that were executed or amended after 1/1/21 should include language regarding the new requirements. Also refer to Question 19.

Disabled Veteran Business Enterprise (DVBE)

Subcontracting Report

Frequently Asked Questions

27. What is expected of contracts that started after 1/1/2021 but have already been completed and paid?

Any contract that started after 1/1/2021 should include the applicable DVBE Program Requirements in the solicitation (verbal or written) whenever the solicitation includes the DVBE participation requirements. Contact your legal for more clarification.

28. Will the SCM Vol 2 be updated to specify how this applies to the different types of LPAs? It currently states that the user must refer to individual user instructions. For example - the Copy Paper (which has DVBE subcontracting) contract user instructions do not currently state that DGS is obtaining the STD 817 certifications, therefore our understanding is that we (the department) must obtain the STD 817s and withhold payments when applicable.

If the user instructions have not been revised, awarding departments handling LPA-based procurements will also obtain the STD 817 and withhold payments. DGS will collect the STD 817 information for procurements based on LPAs processed by DGS.

29. Is there an anticipated date on when SCM Volume 1 will be updated to reflect these requirements?

SCM Volume 1, Chapter 8: Business Participation Program Requirements was updated as of April 2022 with the new DVBE Subcontracting requirements.

30. Can you share how DGS captures DVBE subcontractor information throughout the contract term?

The DGS/Procurement Division (PD) requires prime contractors to submit a monthly report to identify DVBE subcontracting usage and participation in statewide contracts. If a contract term ends within the reporting period, the DGS/PD compiles the DVBE subcontractor's information on Form 810D and submits the report to the Office of Small Business and DVBE Services (OSDS).

31. Is the STD 817 and payment withholdings required for goods purchases made via LPAs?

For more information refer to Questions 9 and 10.
Note: Always refer to the User instructions.

Disabled Veteran Business Enterprise (DVBE)

Subcontracting Report

Frequently Asked Questions

32. Is the STD 817 required with the stated LPA's?

LPA user instructions will include the new STD 817 information.

33. Is STD 817 only required if a DVBE subcontractor is used?

Yes, if a DVBE subcontractor is used on any contract, the STD 817 is required.

34. Is there a legal ramification if the department fills out the STD 817 information on behalf of prime contractor?

Yes, there can be some legal ramifications if the form is filled out for the prime contractor. Due to the change in statute, the form is to be filled out by the prime entirely.

One scenario involves the prime contractor who is most likely not in compliance with the DVBE program requirements, may pursue legal ramifications from the state by stating the department falsely entered the information and forced the prime contractor to comply with what was on the certification (STD 817) in order to be paid and then was not paid at all, partially paid or paid late based on the information on the STD 817.

Another scenario can involve the prime contractor not agreeing to what was filled out on the STD 817 and does not submit it or the department will not accept an updated/corrected version. The prime contractor may sue for damages.

35. Just to clarify, contracts resulting from RFOs now require agencies to obtain an STD 817 from the prime contractor, right?

When LPAs include further competition (e.g., Masters and CMAS), the department will handle the new DVBE reporting and withhold duties. In accordance with the language empowering DGS to prescribe alternative mechanisms on some LPAs, such as statewide contracts (SWCs), the process will vary. The majority of SWCs consist of a high volume of relatively small purchases which would be too administratively burdensome for departments and contractors to comply with the new process. Therefore, unless the SWC's user instructions direct departments to utilize the new procedure, DGS-PD will handle the reporting and cure processes and departments will not be responsible for withholding of payment.

Also refer to Question 9 and 10.

Disabled Veteran Business Enterprise (DVBE)

Subcontracting Report

Frequently Asked Questions

- 36. How can you require the STD 817 on an amendment to a contract if the original contract did not contain that language since it was issued before 1/1/21 but the amendment was after 1/1/21 - like an option to extend?**

If an amendment to a contract is done that allows for changes in contract language, this new requirement is needed after 1/1/21. It will be best to confirm with your legal department if this change will or will not cause any additional legal ramifications.

- 37. As the new DVBE subcontracting requirements instruct awarding bodies to withhold 10k, if STD 817 is not returned, but what happens, what do we do with the withholding? Do we give it to subcontractor? Liquidate it?**

The new law requires a withhold and possible permanent deduction of \$10K if the STD 817 certification is not returned after proper notice to cure from the awarding department. As the process for withholding monies has not changed, you will continue to follow your departments current processes and protocols for withholds. For more information, please consult your department's accounting and/or legal counsel.

- 38. There is a section on the form that asks for the Date Last Payment Received, and I am wondering how are they supposed to report the last payment received, if we cannot issue their last payment until after we receive the STD 817 report from them?**

Due to the change in statute, the form is to be filled out by the *Prime entirely*. Upon its return the procurement official would enter information only in the *For State Use Only* box, which would just include the date the buyer received the form.

The Date Last Payment Received is entered by the prime contractor. This is to record the prime contractors understanding of the last payment they received. It would be a checks and balance type system. The payment last received by the prime contractor should be everything owed based on work performed except the final payment of \$10,000 or no monies if the contract was for less than \$10,000. Which is why the *For State Use Only* box is needed. This box will record when the complete and accurate STD 817 was received for release of the final payment or monies owed.

Disabled Veteran Business Enterprise (DVBE) Subcontracting Report Frequently Asked Questions

39. What if the amount held is the full amount because the agreement is 10k or less? How do you permanently deduct the full amount of an agreement?

If the agreement amount is less than \$10K and the prime contractor failed to submit the DVBE subcontractor's certification information after given the opportunity to cure, the department must permanently deduct the full payment if less than \$10,000. {MVC §999.7} Please contact your accounting department for further clarification.

40. Why aren't the SB data reporting requirements incorporated into the STD. 817?

The [STD 817](#) (Prime Contractor's Certification - DVBE Subcontractor Report) is limited to the DVBE reporting requirement by law. {MVC §999.5(d)}

41. Is the contractor aware of these changes and that we can withhold money?

It is awarding department's responsibility to include contract language and specific payment provisions to describe the requirements including the STD 817 Prime Contractor's Certification - DVBE Subcontracting Report and withholding of money.