

Important Updates for Businesses Using DVBE Subcontractors on State Contracts

As a result of recently passed legislation, the Department of General Services Procurement Division and its Office of Small Business and Disabled Veteran Business Enterprise Services (OSDS) has implemented new requirements for Disabled Veteran Business Enterprise (DVBE) subcontracting and reporting, as well as strengthened enforcement of the Commercially Useful Function (CUF) requirements for Small Businesses and DVBEs.



CALIFORNIA DEPARTMENT OF GENERAL SERVICES

DGS

Office of Small Business
and Disabled Veteran
Business Enterprise Services

www.dgs.ca.gov/PD-SB-DVBE-Resources | OSDSHelp@dgs.ca.gov

Legislation

- Assembly Bill (AB) 230 (2019, Chapter 676),
- AB 1365 (2019, Chapter 689),
- Senate Bill (SB) 588 (2020, Chapter 80)
- AB 1574 (2021, Chapter 756).

For more information about these bills please visit:
www.leginfo.legislature.ca.gov

Requirement Highlights

Revised DVBE requirements in contract solicitations

Effective January 1, 2021, there are new program requirements for DVBE subcontractor reporting on state contracts. State departments have updated solicitation language for DVBE subcontractor reporting, CUF and substitution.

Required CUF certification under penalty of perjury in bid submittals

Per AB 1574, effective January 1, 2022, prime bidders must certify under penalty of perjury in their bid proposals to the state that the certified firm(s) performing work on the respective contract(s) are complying with the CUF requirements.

To see CUF requirements visit: www.dgs.ca.gov/PD-CUF

Changes in DVBE requirements in state contract general provisions

State departments have updated general provisions language to strengthen DVBE requirements on CUF, substitution of subcontractors and add new subcontractor reporting requirements for contracts starting January 1, 2021.

For more information about these bills view:
[Broadcast Bulletin P-06-21 \(PDF\)](#)

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Requirement Highlights

Stronger DVBE substitution requirements during the term of the contract

Prime contractors are required to use DVBE subcontractors and/or suppliers listed in the bid or proposal to the state for the contract amount and work listed unless a substitution with another DVBE is requested and approved by the awarding department and OSDS **prior to work being performed** by the replacement DVBE. Failure to request a DVBE substitution may result in cancellation of the contract and/or the recovery of damages, sanctions and additional penalties outlined in Military and Veterans Code (MVC) section 999.9 and Public Contract Code (PCC) sections 10115.10 or 4110 (for public works).

To see DVBE Substitution Requirements visit:
[File DVBE Substitution Request](#)

Upon completion of contract, prime contractors must certify payments to DVBE Subcontractors

Any contract with the state, that has DVBE subcontractors, the prime contractor must provide to the state department a complete and accurate report certifying **under penalty of perjury** that all payments to DVBE subcontractors were made under the contract. The prime contractor must submit the Prime Contractor's Certification – DVBE Subcontracting Report (**STD 817, formally 810P**). This certification may be submitted before the final payment to avoid withhold for non-compliance. If certification has not been received, there is a new withhold requirement.

New withhold from final payment to prime contractor

If an accurate and complete STD 817 is not received from the prime contractor upon completion of contract and before the final payment, the state department will withhold \$10,000 or full payment if less than \$10,000, from a prime contractor's final payment until the complete and accurate form is received.

Prime contractors afforded opportunity to cure

Prime contractors not complying with this requirement will receive written notification and be provided an opportunity to cure. State departments will give a prime contractor that fails to meet these certification requirements 15 to 30 calendar days to cure the defect.

Permanent deduction for non-compliance

If the prime contractor fails to comply after given an opportunity to cure, the withhold will be permanently deducted.

Sanctions for violations of the DVBE requirements

Violations of the DVBE program requirements, including not complying to the new subcontractor reporting requirements, are reported to OSDS and may result in suspension from doing business with the state per MVC section 999.9(c). The law now authorizes any city attorney, county attorney or county counsel, district attorney, or Attorney General to bring a civil action for this violation.

To see Sanctions for DVBE violations visit:
[SB/DVBE Program Violations and Sanctions](#)

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Requirement Highlights

New requirements for prime contractor on DVBE subcontractor documentation and record retention for state departments

Prime contractors are required to provide support documentation for the STD 817 certification on DVBE payments upon departments request. For audit purposes, state departments are required to review and retain all information provided by prime contractors on DVBE requirements and contract records for a minimum of six (6) years from date of receipt.

Best Practices for Prime Contractors

- Notify all DVBE subcontractors that are listed on the bid, what work they are performing, and for what amount.
- Review for accuracy the listed DVBE subcontractors in the notification generated by the Financial Information System for California (FI\$Cal).
- Utilize the DVBE subcontractor(s) as listed in the successful bid, unless DGS approves a substitution request.
- Ensure all certified firms comply with CUF requirements on contracts.
- Keep the DVBE subcontractors informed throughout the contract period.
- File an accurate and complete STD 817 with the state department upon completion of the contract.

Need Help?

For questions or assistance, email:

OSDShelp@dgs.ca.gov

SB.DVBEcompliance@dgs.ca.gov

BusinessOutreach@dgs.ca.gov