

BROADCAST BULLETIN

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DATE ISSUED: November 19, 2021
EFFECTIVE: Immediately

TO:
Procurement and Contracting Officers (PCO)
Purchasing Authority Contacts (PAC)
Small Business (SB) and Disabled Veteran Business Enterprise (DVBE) Advocates

SUBJECT:
New DVBE Contracting and Reporting Requirements

Purpose The purpose of this communication is to announce required policy and procedure changes to the Disabled Veteran Business Enterprise (DVBE) program due to new legislation.

Policy This policy and related procedures apply to state contracts with DVBE subcontractor participation, effective immediately, and must be fully implemented by state departments on or before February 1, 2022. Below is a general summary of policy changes that state departments are required to implement:

1. Incorporate language regarding applicable DVBE program requirements in solicitations and executed contracts, including the requirement to submit a complete and accurate *Prime Contractor's Certification – DVBE Subcontracting Report* ([STD 817](#)) upon contract completion.
2. Withhold \$10,000, or full payment if less than \$10,000, from a prime contractor's final payment pending receipt of a complete and accurate STD 817.
3. Provide proper withhold notification to prime contractors, including a right to cure notice.
4. Establish appropriate review procedures for reported DVBE data to ensure accuracy and completeness of the award and paid amounts reported, including requests to prime contractors for proof of payment to DVBE subcontractors.
5. Retain all information provided by prime contractors and contract records for a minimum of 6 years from date of receipt.

Background In an effort to strengthen DVBE program requirements, the following legislation was enacted in 2019 and 2020:

AB 230 (Brough, Chapter 676, Statutes of 2019) amended Section 999.5 of the Military and Veterans Code and Sections 14839 and 14841 of the Government Code and added Section 10230 to the Public Contract Code.

AB 1365 (Veterans Affairs Committee, Chapter 689, Statutes of 2019) added Section 999.55 to the Military and Veterans Code.

SB 588 (Archuleta, Chapter 80, Statutes of 2020) added Section 999.7 to the Military and Veterans Code.

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Procedure

State departments already implementing procedures due to the new legislation noted herein must also incorporate the procedures provided in the State Contracting Manual (SCM), summarized below:

1. Awarding departments must include applicable DVBE Program Requirements in solicitations whenever the acquisition includes DVBE participation requirements.
2. Awarded contracts must include applicable contract language and specific payment provisions.
3. Upon receipt of final invoice, withhold \$10,000 or the full amount of the final invoice if less than \$10,000 pending receipt of the complete and accurate STD 817.
4. Review the STD 817. If it is determined to be complete and accurate, authorize payment of the withhold.
5. If the STD 817 is late or incomplete, department must send the prime contractor a cure notice allowing at least 15 days, but not more than 30 days, to meet the certification requirements.
6. If the prime contractor does not comply by the identified deadline, permanently deduct the withhold.
7. Retain all records for a minimum of six years.

The following volumes and sections of the SCM will be updated:

Volume 2:

Chapter 3 – Sections 3.4.3, 3.4.4, 3.4.6

Chapter 9 – Sections 9.A1.1, 9.A5.2

Chapter 11 – Sections 11.1.2, 11.1.6, 11.2.0, 11.4.1, 11.4.2

Volume 3: Chapter 3 – Sections 3.5.3, 3.5.4, 3.5.6

Chapter 9 – Sections 9.A1.1, 9.A5.2

Chapter 11 – Sections 11.1.2, 11.1.6, 11.2.0, 11.4.1, 11.4.2

Volume F:

Chapter 3 – Sections 3.A5.3, 3.A5.4, 3.A5.6

Chapter 8 – Sections 8.A1.1, 8.A5.2

Chapter 9 – Sections 9.D1.2, 9.D1.6, 9.D2.0, 9.D5.1, 9.D5.2

Volume 1 will also be updated by the Office of Legal Services (OLS) to reflect the new requirement relating to contracts for non-IT services.

All volumes of the SCM can be found on the DGS website at:

<https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/State-Contracting-Manual>.

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Questions:

For questions and information contact: OSDSHelp@dgs.ca.gov.
