

California Code of Regulations

Title 2. Administration

Division 2. Financial Operations

Chapter 3. Department of General Services

Subchapter 10.5 Disabled Veteran Business Enterprise Participation Goal Program for State Contracts

Section 1896.62 Disabled Veteran Business Enterprise Participation Goals.

(a) The disabled veteran business enterprise participation program established in Public Contract Code Section 10115(c) applies to the overall annual expenditures of the awarding department for contracts as defined by Section 1896.61(e), Subchapter 10.5, Title 2 of the California Code of Regulations.

(b) The director of the awarding department may establish a participation goal either less than or in excess of the statutory goal of 3 percent DVBE(s) for a specific solicitation , project or contract as long as the overall goal of 3 percent DVBE(s) is satisfied as defined by Section 10115(c) of the Public Contract Code

(c) To qualify as a responsive bidder for contracts awarded as the result of a solicitation process when DVBE participation is specified, in addition to meeting all other technical and/or administrative requirements specified in the solicitation, a bidder must document in the bidder's response to the solicitation, at or prior to the time of bid opening, that the bidder made a commitment to fulfill the participation goal, or made a good faith effort to meet the participation goal. The bidder's authorized representative shall:

- 1) list the name of each DVBE firm proposed for use in the performance of the contract
- 2) list the percentage share/dollar amount of the overall contract to be performed by each DVBE; and
- 3) describe the task to be performed by each DVBE

Section 1896.63. Good Faith Effort

a) Bidders must satisfy the good faith effort requirement (unless goal is met) at the time of bid opening.

b) If the participation goal is not met, the bidder shall comply with the requirements of Section 10115.2(b)(1) through (5) The awarding department shall require documentation of that compliance with the bid.

c) The awarding department shall evaluate the effort made by the bidder to seek out and consider disabled veteran business enterprises as potential subcontractors for services, materials, labor, supplies or equipment. In evaluating such effort, the awarding department shall require written

evidence that the bidder completed the actions specified in Public Contract Code Section 10115.2 (b) 1 through 5

1) bidders must advertise in trade papers and papers focusing on disabled veteran business enterprises at least 14 calendar days prior to the due date of the response unless the awarding department shortens or waives the advertising requirement if time limits do not permit a 14 day advertising period.

If a bidder fails to meet the good faith effort requirements of Section 1896.63, such bidder shall be deemed to be a non-responsive bidder for purposes of an awarding department's evaluation of an award of contract and is thus ineligible for an award. Section 1896.75 requires that bidders agree to be audited to see that the DVBE participation requirement is met after the contract is awarded. This is an area where failure to utilize a DVBE listed under goals in order to induce the state to enter into a contract with a bidder will likely result in civil and criminal charges of fraud.