

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



**REQUEST FOR PROPOSAL-Secondary
RFP 09PS5832
California Solar Initiative: The Multi-Family Affordable Solar Housing
and the Single-Family Affordable Homes Solar Programs**

Notice to Prospective Proposers

September 25, 2009

You are invited to review and respond to this Request for Proposal RFP 09PS5832, entitled California Solar Initiative: The Multi-Family Affordable Solar Housing and the Single-Family Affordable Homes Solar Programs. In submitting your proposal, you must comply with these instructions.

In the opinion of California Public Utilities Commission (CPUC), this RFP is complete and without need of explanation. However, if you have questions, or should you need any clarifying information, please provide your technical questions by e-mail to Mona Dzvova at mdd@cpuc.ca.gov. Contract-related questions should be addressed to Robert Smith at res@cpuc.ca.gov.

Please note that no *verbal* information given will be binding upon the State unless such information is issued in writing as an official addendum.

Robert Smith
CPUC Contracts Office Manager

A) Purpose and Description of Service	3
1) Summary	3
2) Background	3
3) Low-Income Evaluation Objectives	4
4) Scope of Work	5
B) Minimum Qualifications for Proposers	9
1) Qualification/Experience	9
2) Conflict of Interest Disclosure	10
C) Proposal Requirements and Information	10
1) Key Action Dates	10
2) Optional Pre-Proposal Conference*	11
3) Work plan and Work Schedule Requirements	11
4) Cost Detail Format and Requirements	11
5) Submission of Proposal	12
6) Evaluation Process	14
7) Award and Protest	15
8) Disposition of Proposals	15
9) Agreement Execution and Performance	15
D) Preference Programs	16
1) Small Business Preference	
2) Target Area Contract Preference Act (TACPA)*	
3) Local Area Military Base Recovery Act (LAMBRA)*	
4) Enterprise Zone Act (EZA)*	
E) Required Attachments	23
1) Required Attachment Check List	
2) Proposal/Proposer Certification Sheet	
3) Sample Cost Proposal Work Sheet	
4) Proposer References*	
5) Disabled Veteran Business Enterprise (DVBE) Participation Program	
6) Payee Data Record (STD 204)	
7) Contractor's Certification Clauses (CCC) (page 1)	
F) Sample Standard Agreement (STD 213)	49
1) Exhibit A, Scope of Work	
2) Exhibit B, Budget Detail and Payment Provisions	
3) Exhibit C, General Terms and Conditions	
4) Exhibit D, Special Terms and Conditions	
5) Exhibit E, Additional Provisions	

* Optional

A) Purpose and Description of Services

1. Summary

This contract is for an independent contractor, or evaluator, to conduct a biennial independent evaluation (study) of the low-income component of the California Public Utilities Commission's (Commission or CPUC) California Solar Initiative (CSI). This project will evaluate the Single-family Affordable Solar Homes (SASH), and the Multi-family Affordable Solar Housing (MASH) Programs. The Energy Division is requesting a comprehensive and coordinated evaluation of the programs, based on Commission decisions establishing the MASH and SASH programs, and consistent with the general market CSI Evaluation Plan described in the July 29, 2008 ACR in (R.08-03-008).¹ This contract will provide for in-depth examinations of the design, delivery, operations, and impact of the CSI low-income programs, including recommendations to the Energy Division and Program Administrators for improvement to each program. In addition, the contractor will support regular progress reporting from the Program Administrators to the Energy Division, including inputs to the CSI Annual Program Assessment to be submitted to the Legislature on June 30, 2010 and June 30, 2011.

The evaluator is expected to put forward a project team with experience and qualifications in low-income programs, solar programs and markets, and cost-benefit analysis, as well as the skills and capacity appropriate for a project of this scale. The evaluation will cover, but not be limited to: the overall cost of the program and its components, the electrical impacts on the grid including system performance, the bill and financial impacts on participants, program demographics, the deployment of energy efficiency measures, and Program Administrator performance. The contractor will be the primary evaluator of these two programs and the contract length will be approximately two years; January 2010 to December 2011.

2. Background

In 2005 and 2006, the CPUC and the California Energy Commission (CEC), collaborated to establish the CSI to fund rebates for installation of solar energy systems for customers of Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas and Electric Company (SDG&E). In Decision (D.) 06-01-024 the Commission approved initial policies and funding for the CSI and required that a minimum of 10 percent of program funds be applied to solar projects installed by low-income residential customers and affordable housing projects. (See D.06-01-024, p. 27.) In D.06-08-028, the Commission established further implementation details for the CSI, including biennial reviews of CSI and its components through the end of the program.

On August 21, 2006, the Governor signed Senate Bill (SB) 1 (Murray 2006)², which directs the CPUC and the CEC to implement the CSI given specific requirements and budget limits set forth in the legislation. SB 1 mandates that the CPUC portion of CSI shall not exceed a total program cost of \$2.17 billion.

D.06-12-033 modified the CSI program to conform with SB 1, including adjustments to the total budget and MW goals. The Commission directed solar incentives to customers in investor-owned utility territories for existing homes and existing and new commercial, industrial, and agricultural properties. The Commission allocated \$2.17 billion over 10 years for its portion of the CSI, and set a goal of 1,940 MW of installed distributed solar capacity by 2016. This goal includes 1,750 MW from the General Market incentive program and 190 MW from the low-income resident incentive programs. The low-income residential incentive programs are to be evaluated separately from the General Market incentive program. SB 1 created Public Utilities (PU) Code 2851(c)(3) which requires that the Commission submit a report to the Legislature annually, commencing on June 30, 2009, with an assessment of the entire Commission portion of the CSI program, including the low-income component. The CPUC submitted the first legislative report in June 2009, including assessments of the MASH and SASH programs.³

In designing the low-income component of the CSI, the Commission opted to design two programs, each targeting different groups of qualifying low-income participants. The total budget for the low-income programs is set at \$2.17

¹ D.07-11-045 established the SASH program, originally named the Low-Income Single Family program. D.08-10-036 established the MASH program. Both programs call for biennial reviews to be conducted by an independent evaluator.

² Chapter 132, Statutes of 2006 (SB 1, Murray)

³ The first California Solar Initiative Annual Program Assessment Report was submitted to the legislature on June 30, 2009 and covered the period from January 1, 2007 to May 27, 2009.

million, with half going to a program to support solar installations on low-income single family homes, and the other half to support solar on multi-family affordable housing units.

Single-family Affordable Solar Homes Program (SASH)

In April 2007, the Commission's Energy Division staff issued a proposal that led to the Commission's adoption of D.07-11-045 establishing a \$108 million Low-Income Single Family (LISF) solar incentive program to provide partial, and in some cases, fully subsidized solar energy systems for low income households. Subsequently renamed as the SASH Program, this effort is targeted at existing single-family low-income owner-occupied homes that meet the definition of low-income residential housing established in PU Code § 2852. The Energy Division selected Grid Alternatives as the Program Manager after a competitive RFP issued on April 16, 2008. The GRID Alternatives is a non-profit organization with offices and staff throughout the State.

Multifamily Affordable Solar Homes (MASH) Program

In October 2008, the Commission adopted D.08-10-036, establishing the \$108 million MASH Program, and directed the Energy Division to hire an independent evaluator to conduct a biennial report. The MASH program is targeted at existing multifamily affordable housing that meets the definition of low-income residential housing set forth in PU Code § 2852. Specifically, this means multifamily housing financed with low-income housing tax credits, tax-exempt mortgage revenue bonds, general obligation bonds, or local, state or federal loans or grants. The housing must also meet the definition of low-income households in Health and Safety Code § 50079.5.

According to a study for the Commission on the characteristics of the low-income Populations in California, approximately 50% of low-income households in the state, or two million households, live in multifamily dwellings. The program is designed to substantially subsidize solar energy systems in multifamily housing, which will, in combination with energy efficiency measures, offset energy loads and provide economic benefits for both affordable housing property owners and managers and building occupants. The MASH program is administered by the CSI Program Administrators, PG&E, SCE, and the California Center for Sustainable Energy (CCSE)⁴, for the CSI general market program.

Goals for the Low-Income programs

Both the SASH and MASH programs are designed to achieve broad policy objectives, including:

- Stimulate adoption of solar power in the affordable housing sector;
- Improve energy utilization and overall quality of affordable housing through application of solar and energy efficiency technologies;
- Decrease electricity use and costs without increasing monthly household expenses for affordable housing building occupants;
- Increase awareness and appreciation of the benefits of solar among affordable housing occupants and developers.

In D.06.08-028, the Commission decided to institute periodic reviews, every two years, through the duration of the CSI program. In D.07-11-045, the Commission established the Single-Family Low-Income Incentive Program, which would later be renamed the SASH Program, and recommended ongoing evaluation and a formal biennial independent evaluation. The Commission mandated that ten percent of the CSI budget would be allocated for the low-income incentive budget of \$2.17 million. Moreover, this decision declared that the program impacts are independently evaluated, measured, and verified. The results of these reports will enable the decision makers to make sound policy decisions as well as to ensure that the Program Administrators manage the CSI in a manner consistent with the intent of the Legislature's, and the Commission's objectives and directives. The biennial evaluation report for the low-income programs is consistent with this policy and may be used to expand, eliminate, streamline, or set more realistic goals for the SASH and MASH programs.

3. Low-Income Evaluation Objectives

The Scope of Work in Section 4 below describes the tasks and timeline for a full impact, process and implementation evaluation of the two low-income programs that are components of the CSI. The Commission rulemaking, R. 08-03-008 (March 13, 2008), established a general evaluation plan for the CSI program. The

⁴ CCSE is the Program Administrator in the SDG&E territory.

biennial evaluation reports for the SASH and MASH programs are explicitly separate from the General Market program assessments, but will generally conform to the same guidelines.⁵ The studies contracted for here are the first biennial reports for each program and are due in mid-2011. The Energy Division (ED) has determined that given the similar nature of each program and skills and experience necessary to conduct these studies, it would be efficient and prudent for a single evaluator to conduct both reviews. This will ensure consistency in reporting and metrics between the two programs and support and strengthen the Commissions' commitment to low-income ratepayers.

As mentioned above, the evaluation of the MASH and SASH programs will be consistent with the principles outlined in the CSI Program Evaluation Plan and provide input to the CSI Annual Program Assessment. The CSI Program Evaluation Plan establishes the measurement and evaluation goals for the CSI program, detailed below:

1. Utilize a standardized process for evaluating programs and reporting program results;
2. Provide credible and objective information on program impacts and performance;
3. Provide policy and program related information to ensure achievement of CSI program goals and support the "Periodic CSI Review Process";
4. Produce an accurate assessment of future opportunities to further the goals of SB 1; and
5. Produce information that meets the needs of resource planners in order for distributed solar PV and solar thermal energy to be counted as a resource in long term procurement planning.

In applying these principles to the MASH and SASH evaluation, the contractor selected for these studies will be addressing several key questions. First, the contractor must evaluate progress towards the program goals described in Section 2 and the relevant Commission decisions. Second, the contractor must analyze the cost-effectiveness of the program from multiple perspectives, using past Commission analysis of low-income programs and the recently approved methodology for assessing the costs and benefits of distributed generation as frameworks. Third, the evaluation should look at the market effects of the program, with particular regard to the low-income housing market and population. Fourth, the contractor will evaluate the efficiency of the program operations, including Program Administrator performance. Finally, the contractor will identify and analyze any barriers to the program's full implementation or success prior to 2016, and provide appropriate recommendations for program changes or modifications.

4. Scope of Work

4.1 Duration of Work

Work will commence immediately upon approval of the contract, which will extend through December 2011, although all substantial work products and deliverables should be complete by October 2011.

4.2 Task 1 – Management and Coordination of Evaluation Work Activities, Ongoing Contract Management, and Project Meetings.

Under this task, the selected Contractor will be responsible for:

1. Ensuring that all evaluation work activities are implemented as documented in the SASH and MASH evaluation plans, including directives contained in the applicable Commission Decisions and Rulings. This includes responsibility for a **Final Work Plan and Budget** delivered to Energy Division within seven days of the Project Initiation Meeting (see below);
2. Ensuring that the Contractor's contract management obligations are carried out in a professional and transparent manner;
3. Maintaining regular and direct communication with the ED project manager, including status reports in writing (minimum monthly), and status meetings;

⁵ See the July 29, 2008 Assigned Commissioner's Ruling (ACR) Establishing Program Evaluation Plan for the CSI: <http://docs.cpuc.ca.gov/efile/RULINGS/85799.htm>

4. Attending and occasionally facilitating meetings with ED staff, CSI Program Administrators, and project stakeholders. This will include, but not be limited to the following:
 - a). *Project Initiation Meeting*: The selected Contractor will conduct a project initiation meeting or series of meetings with Energy Division staff. The purpose of the project initiation meeting is for Energy Division staff and the Contractor to discuss and cooperatively refine the project scope, schedule, management process, reporting and priorities; reach mutual understanding on any unresolved items, and discuss the requirements of the Evaluation Plan. The Contractor will record meeting notes and submit them to the Energy Division project coordinator and relevant staff within seven days of the meeting, including a revised work plan and budget if necessary.
 - b). *Project Meetings and Workshops*: The selected Contractor will be expected to conduct monthly meetings, in person or by phone, with some combination of Energy Division staff. The meetings may occur more frequently during the early and final stages of the project and less frequently during the middle of the project. From time to time, the selected Contractor may be required to facilitate workshops, or to make presentations and respond to questions in a workshop setting.
 - c). *Final Project Meeting* will cover the following items at a minimum:
 - i) What to do with any state-owned (purchased with evaluation funds) equipment;
 - ii) Submission of state-owned intellectual property;
 - iii) "Surviving" Agreement provisions;
 - iv) Final invoicing and release of retention;
 - v) Preparation of a schedule for completing the closeout activities for this Agreement.
5. Ensuring that project reporting is completed according the specifications and schedule documented or referenced in the MASH and SASH Evaluation Plan. This responsibility is composed of, but not limited to, the following reports:
 - 5.1. Monthly Status Reports
 - 5.2. Input to CSI Quarterly Reports regarding SASH/MASH progress
 - 5.3. Biennial Evaluations (individually for SASH and MASH)
 - 5.4. Ad Hoc reports as appropriate and required by Energy Division
6. Preparing and submitting invoices in accordance with this Agreement on a monthly basis.

4.3 Task 2 –Data Collection

Under this task, the Contractor is responsible for a data collection plan and submit it to Energy Division for their review and approval. The plan shall detail the Contractor's plan to collect and analyze data from the SASH and MASH programs. This data will be used to assess progress towards goals, program cost-effectiveness, market impacts, Program Administrator effectiveness, and barriers to success for the SASH and MASH programs. Data collection under this contract should cover each program from its inception date, and continue through the contract term. All data collected must be made available to the ED and becomes part of the public record.

Pursuant to D.07-11-045, the following data must be reviewed and considered in the Biennial report for SASH, and the same framework will apply to MASH:

- Key Program Statistics
- Overall cost of program and cost of program components (i.e., administration, marketing and incentives);
- The average amount energy bill is reduced per household or unit (both in dollars and kWh);
- Whether participants perform and take an action as a result of an Energy Audit;
- Other, non-solar energy savings measures households/units have implemented along with their solar installation;
- Whether or not the programs increased participant's household debt-load;
- Customer satisfaction with the program and with the solar PV system;
- Turnover of homeowners in houses, served and ongoing residence status of the home, or multi-family housing units;
- Languages used in outreach and languages spoken by participating households or units;
- Locations of eligible households or multi-family units not served;
- Geographic coverage across the state;
- The impact of Virtual Net Metering on program success and participation;

- Percent of total (SASH) CARE/LIEE customers served by programs and percent of solar incentive recipients who are CARE/LIEE ;
- The effectiveness of consumer education programs related to SASH and MASH;
- Effectiveness of energy efficiency measures as related to PV Systems;
- Installed system performance and maintenance adequacy;
- Ability of programs to reach MW goal.

Other areas of interest for evaluation are the program implementation plan, outreach capacity, solar contractor partnership program (part of SASH), installation protocols and procedures, program and project inspection rates and durations, marketing outreach, website, marketing collateral, and program reporting. The final report should include an analysis of the participation rates of non-profit affordable housing developers compared to the participation of for-profit developers. The contractor should also collect data on Program Administrator budgets, including rates of expenditure, balances and liabilities for the MASH and SASH programs.

4.4 Task 3 – Project Reporting

Project Reporting is expected to include, but will not necessarily be limited to, the following items:

1. Quarterly Progress Reports (2010, 2011) – Beginning with 1st Quarter of 2010, these reports will be a summary of data collection and observations that result from Task 2 above, with only cursory analysis and any appropriate recommendations. Primarily, these will serve to inform regular reporting by the ED on CSI progress, and generally improve the transparency of MASH and SASH implementation. The contractor will compile and present all available data on the SASH/MASH programs in a compelling and transparent format. These summary reports will be due in final form two weeks after the close of each quarter, with the first report due in **April, 2010**. Formats for the data reporting will be determined with the input and approval of Energy Division.
2. Biennial Evaluation Reports (2011) –These reports will provide a review of program cost, practices, impacts, major findings, observations, program implementation, and recommendations for the programs. The reports generated by this evaluation will distinguish whether a CPUC policy change or a PA implementation change is recommended. Also, the report will cover the various components of the low-income programs from each program's inception through Program year 2010; including data presented in the Quarterly Progress Reports. The evaluator will present any relevant evaluation findings, observations and recommendations regarding the program implementation, consistent with the evaluation goals described in Section 3 above. The draft and final biennial evaluation report(s) for each program (MASH and SASH) will be due in June 2011 under a separate cover, and should include an assessment of all the data listed in Task 2 as well as the assessment described in Tasks 4-7.
3. Ad-hoc Recommendation Reports – To document problems, resolution and urgent issues as they arise, certain ad-hoc reports, memos or presentations may be required. These reports may also need to be linked with planned evaluation efforts that result in changes in work efforts. Examples might include Memos on : changes to application processing; changes in inspection protocols, changes to database structure; changes to incentive structure; or changes to the eligibility criteria.
4. Final Project Management Report – The final project management report for this contract must summarize the work that has taken place under this agreement. The format and contents will be specified by the Energy Division project manager. We expect this report to present an overview of the evaluation efforts and identify the key issues that came up during the evaluation, with a summary of how they were handled. The report should also recommend how the study should be conducted in the future; identifying changes to the evaluation approach that can be expected to improve the reliability of the findings.
 - a) **Draft Project Management Report – Due October, 2011**
 - b) **Final Project Management Report – Due November, 2011**

4.5 Task 4 - Cost Benefit Analysis

A proposed framework for evaluating the low-income programs shall be submitted and conform to D.09-08-026 adopting a methodology for evaluating Distributed Generation, including costs and benefits from societal, participant and non-participant perspectives, consistent with the California Standard Practice Manual and the current framework used by CPUC in evaluating other components of the CSI program. Under this task, the evaluator is

responsible for determining the financial fitness of the programs determined by a cost benefit analysis, which will be quantified by collecting the positive (benefits to ratepayers) and negative (cost) factors and quantifying these costs. This analysis will at a minimum review the following categories of cost and benefits:

1. Administration costs:
 - a) Labor Expenses
 - b) Direct Expenses
2. Equipment Costs
 - a) System Installation
 - b) System Inspection (subcontractor cost for SASH)
3. Incentive Payouts
 - a) EPBB payments
 - b) PBI payments
5. Direct cost to participants
 - a) Gap financing for SASH participants
6. Rate of Return for participants (customer payback for direct cost)
7. Cost of Expansion of SASH program (eligibility revision PUC 2852)
8. Cost of sub-contracts with other agencies and affiliates
9. Invoice processing for Program Administrator/SCE/CPUC

This Task includes a report of the findings independent of their inclusions in other reports or Tasks.

4.6 Task 5- Market Assessment (analysis) of solar cost for low-income population:

Using the data collected in Task 2 and any additional information collected with the approval or collaboration of the ED, the contractor will conduct an analysis of the market impacts of the MASH and SASH programs. Under this task, the evaluator is responsible for assessing the solar low-income market and the impact of the low-income programs, including how to expand and improve the programs in the future, e.g. , impact of incentive structure, market drivers, market entry, staff training for solar installation, and comparative market assessment of low-income (solar) programs.

This Task includes a report of the findings independent of their inclusion in other reports or Tasks.

4.7 Task 6 – Program Administrator Performance Assessment, under this task the evaluator has to review the implementation of the programs, and the basic infrastructure of the program management of the day to day operation of the programs:

1. Program Management;
 - a) Initial program implementation
 - b) Application processing (number of households)
 - c) Incentives dollars paid out (pending vs. installed)
 - d) MASH Track 1 and Track 2 incentives
2. Staffing Breakdown
 - a) Count of person-years (PY) per month
 - b) Co-funding agreements management
3. System cost breakdown;
4. Audit preparation;
5. Measurement and Evaluation by program administrator;
6. Marketing and Outreach; (i.e. geographic area served)
7. M & O effort to reach potential participants statewide; (public conferences, etc)
8. Energy Efficiency Measures for (LIEE);
9. Energy reduction per household (average);
10. Effectiveness/incorporation of energy efficiency measures;
11. Program Rules/Guidelines;
12. Potential to reach Megawatt goals set for low-income programs;
13. Meter monitoring, and reporting of performance data; (System performance)
14. Review operation of SASH relative to GRID Alternatives structure;
15. Partnership with community organizations, agencies;

16. Program Administrator's Marketing and Outreach to affordable housing sector;
17. Program Administrator's Marketing and Outreach to ratepayers.

4.8 Task 7 – Recommendations for Program Modifications or Changes:

1. Identify program barriers (high to low classification) -the evaluator should identify any program barriers related to administering the program: available resources, program policies, cost advantage, program eligibility, and integration with general CSI program.
2. Identify gaps in populations not served in low-income programs.
3. Marketing and Outreach improved strategies.

This Task may lead to ad hoc reports or be contained in quarterly or semi-annual reports.

B) Minimum Qualifications for Proposers

In order to demonstrate relevant expertise and capacity to successfully execute the responsibilities of the CSI low-income program Evaluator, please include biographies and resumes of all key staff. In ten pages or less, please document the project team's qualifications as they apply to performing the tasks in the Scope of Work.

1. Qualifications/Experience

The investigative processes associated with conducting the low-income evaluations require a wide range of skills. The contractor's team must demonstrate relevant expertise and capacity to successfully execute the responsibilities, detailed herein. The skills and knowledge needed to conduct this study are varies and include the following:

1. Expertise in public program management and delivery
2. Expert knowledge of a wide range of demand-side and/or distributed generation programs and a strong understanding of their impacts, costs and benefits;
3. Expert knowledge of different low-income program and cost-effectiveness evaluation data collection methods and approaches, and a working knowledge of the cost-benefit evaluation literature and how evaluation approaches and strategies have been applied in other low-income programs for renewable or demand-side projects;
4. Strong analysis capabilities and an expert understanding of the market effects and relationships that impact the ability of low-income energy programs to cost-effectively accomplish their goals, including experience in market effect model construction and assessment;
5. Strong understanding of statistical analysis approaches and analytical procedures appropriate for the low-income cost-effectiveness study research goals;
6. Strong understanding of sampling methods and approaches and the ability to identify potential biases or barriers;
7. High level of past experience in conducting evaluations of low-income programs that adhere to the specific definitions of low-income residential and multi-units eligibility for subsidy, i.e. households that qualify based on area median income per the Health and Safety Code definitions referenced in PUC Code 5852;
8. Widespread knowledge of city and county government contracts with low-income programs;
9. Experience reviewing market strategies directed at low-income communities;
10. Knowledge in the needs of low-income, single/multi family homeowners;
11. Knowledge of CARE and LIE programs;
12. Experience or knowledge of the affordable housing community/agencies.
13. Expert knowledge of different process evaluation data collection methods and approaches, and a working knowledge of the process evaluation literature and how evaluation approaches have been applied to low-income and demand-side programs.

Bidders should also include the following attachments:

Personnel: A detailed description of the proposed relationship between the key personnel, support staff, and other resources that are expected to participate in the Contract. This description must show which aspects of the CSI low-income program evaluation each person, by name and title, will be responsible for and the approximate percentage of their time that will be devoted to this Contract. A minimum of 2500 hours of staff time is expected to complete all of the tasks described in this RFP. Aspects of work should correspond to the work generally described in Section A. Resumes of all key personnel are required.

Organizational Chart: Illustrate the proposed relationships between the project manager, key personnel, support staff, other contractors, and other resources that are expected to participate in the project

2. Conflict of Interest Disclosure

For the purpose of evaluation, all bidders are required to disclose any and all potential conflicts of interest. Certain conditions may render a bidder unable to give impartial, technically sound, objective assistance and advice, otherwise result in a biased work product, or result in an unfair competitive advantage. In order to properly evaluate and judge the proposed contractor, and avoid termination and/or controversy at a later stage, the following is required for each participating firm:

1. Bidders must disclose in their Proposal any current business relationship with firms that perform energy-related work in California, or develop, manufacture, inspect or install technologies with solar power or distributed energy applications. (Provide the firm's name, the nature, scope and duration of the relationship or interest, and its total monetary value).
2. Bidders must provide a statement, signed by the principal of each participating firm, asserting that the information provided in this Proposal is correct to the best of your knowledge.
3. Scenarios not covered herein may be considered on a case-by-case basis as part of the evaluation and scoring of proposals, if the scenario appears to create a conflict of interest that potentially prevents the bidders from providing unbiased service.

C) Proposal Requirements and Information

1) Key Action Dates

FROM	TO	ITEM DESCRIPTION
9/25/09	12/2/09	RFP available to prospective proposers; place ad and post RFP on DGS website at www.csr.dgs.ca.gov/csr and place link on CPUC website at www.cpuc.ca.gov
10/5/09		Bidders' Conference at 10:00 am – 12:00 Noon at CPUC – 505 Van Ness Avenue, San Francisco in Courtyard Training Room. Call-in #: 866-675-0748, Participant Code: 554377#
10/12/09		Written Questions Submittal Deadline: Questions are due by 4:00 pm at the CPUC. They may be submitted by email to the Energy Division (mdd@cpuc.ca.gov) and Contracts Office (res@cpuc.ca.gov). Substantive questions related to the scope and qualifications should be addressed to the Energy Division with copies to Contracts Office. Procedural or contract-related questions should be addressed to Contracts Office.
11/6/09		Final Date for Proposal Submission: Due by 4:00 pm to Robert Smith, Contracts Office Room 2005 at California Public Utilities Commission, 505 Van Ness Avenue, 2nd Floor, San Francisco, CA 94102

11/6/09	12/7/09	Proposal Opening and Evaluation
11/8/09	12/15/09	Posting of "Notice of Intent to Award"; Protest Period
12/15/09		Proposed Award Date
12/15/09	4-6 Weeks	Prepare final contract; obtain Contractor and CPUC signatures; compile contract package for DGS/OLS approval; DGS/OLS reviews and approves contract package and return approved contract to CPUC for distribution
TBD		Contract Work Begins

2) Optional Pre-Proposal Conference.

An optional pre-proposal conference is scheduled at **10:00am – 12:00 Noon on Tuesday, October 6, 2009**, in the Courtyard Training Room at the CPUC, 505 Van Ness Ave., San Francisco, CA 94102-3298 for the purpose of discussing concerns regarding this RFP.

Contractors may use the designated call-in line to participate in the Pre-Proposal Conference. Please email Mona Dzvova (mdd@cpuc.ca.gov) if you intend to participate by phone.

Call-in Number: (866) 675-0748
Passcode: 554377#

For contractors who need assistance due to a physical impairment, a reasonable accommodation will be provided by the awarding agency upon request for the pre-proposal conference. The Contractor must call Mona Dzvova at 415-703-1231 no later than the fifth working day prior to the scheduled date and time of the pre-proposal conference to arrange for a reasonable accommodation.

3) Work Plan and Work Schedule Requirements

The proposer shall develop a work plan and schedule for program implementation and task completion, including a proposed budget. The work plan and schedule will identify each major task, necessary subtask, and/or specific milestones by which progress can be measured and payments made. The work plan and proposed budget should identify the following:

a) Project Personnel

(List all personnel who will be working on the project and their titles and job descriptions)

b) Facilities and Resources

(Explain where the services will be provided and what type equipment is needed to perform the services)

4) Cost Detail Format and Requirements

The proposed budget should be broken down into further detail on a Cost Bid Sheet for the purpose of this proposal. The total Bidder costs, including all tasks and milestones cannot exceed \$650,000. Use the Sample Cost Proposal Worksheet (Attachment 3) as a guide in preparing your cost proposal. Proposals must include a cost bid sheet that reflects the estimated total hours required to conduct and complete the Cost Effectiveness Evaluation. The cost bid sheet should identify the responsibilities and include the fully loaded hourly rate for each staff person that will be devoted to this contract, as well as all indirect and direct costs. The Cost Bid Sheet is separate from the proposed program budget. The proposed budget should be based on the costs presented on the Cost Bid Sheet.

Important note: Evaluation of the proposals will be based, in part, on bidders' total costs. Bidders' total costs will be worth up to 30 points (out of a possible 100 points), and will count towards the overall score. Bidders costs will be scored as follows:

$(\text{Lowest Bidders Total Cost} / \text{Bidders Total Cost}) \times 30 = \text{Bidders Cost Score}$

For example: Bidder A proposes a total cost of \$200,000, Bidder B proposes a total cost of \$250,000, and Bidder C proposes a total cost of \$300,000. Bidder A's score (in bold): $(\$200,000 / \$200,000) \times 30 = \mathbf{30 \text{ points}}$; Bidder B's score (in bold): $(\$200,000 / \$250,000) \times 30 = \mathbf{24 \text{ points}}$; Bidder C's score (in bold): $(\$200,000 / \$300,000) \times 30 = \mathbf{20 \text{ points}}$.

5) Submission of Proposal

- 1) Proposals should provide straightforward and concise descriptions of the proposer's ability to satisfy the requirements of this RFP 09PS5832. The proposal must be complete and accurate. Omissions, inaccuracies or misstatements may be cause for rejection of a proposal.
- 2) The proposal package should be prepared in the least expensive method.
- 3) All proposals must be submitted under **sealed** cover and sent to the CPUC by dates and times shown in **Section C, Proposal Requirements and Information, Item 1) Key Action Dates**. Proposals received after this date and time will not be considered.
- 4) A minimum of 5 hardcopies and 2 CD electronic versions of the proposal must be submitted.
- 5) The original proposal must be marked "ORIGINAL COPY". All documents contained in the original proposal package must have original signatures and must be signed by a person who is authorized to bind the proposing firm. All additional proposal sets may contain photocopies of the original package.
- 6) The proposal envelopes must be plainly marked with the RFP number and title, your firm name and address, and must be marked with "DO NOT OPEN", as shown in the following example:

**California Public Utilities Commission
RFP 09PS5832
California Solar Initiative: Cost Effectiveness Evaluation**

DO NOT OPEN

If the proposal is made under a fictitious name or business title, the actual legal name of proposer must be provided. Proposals not submitted under sealed cover and marked as indicated may be rejected.

- 7) All proposals shall include the documents identified in **Section E, Required Attachment Checklist**. Proposals not including the proper "required attachments" shall be deemed non-responsive. A non-responsive proposal is one that does not meet the basic proposal requirements.
- 8) Mail or deliver proposals to the following address:
Robert Smith, Contracts Manager
California Public Utilities Commission
Consultant Contracts Office, Room 2005
505 Van Ness Ave
San Francisco, CA 94102

U.S. Postal Service Deliveries

Same Address

Hand Deliveries

(UPS, Express Mail, Federal Express)

Same Address-

DELIVER TO MAIL ROOM 1st Floor

- 9) Proposals must be submitted for the performance of all the services described herein. Any deviation from the work specifications will not be considered and will cause a proposal to be rejected.
- 10) A proposal may be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities of any kind. The State may reject any or all proposals and may waive an immaterial deviation in a proposal. The State's waiver of an immaterial deviation shall in no way modify the RFP document or excuse the proposer from full compliance with all requirements if awarded the agreement.
- 11) Costs incurred for developing proposals and in anticipation of award of the agreement are entirely the responsibility of the proposer and shall not be charged to the State of California.
- 12) An individual who is authorized to bind the proposing firm contractually shall sign the Attachment 2, Proposal/Proposer Certification Sheet. The signature must indicate the title or position that the individual holds in the firm. An unsigned proposal may be rejected.
- 13) A proposer may modify a proposal after its submission by withdrawing its original proposal and resubmitting a new proposal prior to the proposal submission deadline as set forth in the Key Action Dates. Proposal modifications offered in any other manner, oral or written, will not be considered.
- 14) A proposer may withdraw its proposal by submitting a written withdrawal request to the State, signed by the proposer or an authorized agent in accordance with h) above. A proposer may thereafter submit a new proposal prior to the proposal submission deadline. Proposals may not be withdrawn without cause subsequent to proposal submission deadline.
- 15) The awarding agency may modify the RFP prior to the date fixed for submission of proposals by the issuance of an addendum to all parties who received a proposal package.
- 16) The awarding agency reserves the right to reject all proposals. The agency is not required to award an agreement.
- 17) Before submitting a response to this solicitation, bidders should review, correct all errors and confirm compliance with the RFP requirements.
- 18) Where applicable, proposer should carefully examine work sites and specifications. No additions or increases to the agreement amount will be made due to a lack of careful examination of work sites and specifications.
- 19) More than one proposal from an individual, firm, partnership, corporation or association under the same or different names, will not be considered.
- 20) The State does not accept alternate contract language from a prospective contractor. A proposal with such language will be considered a counter proposal and will be rejected. The State's General Terms and Conditions (GTC) are not negotiable.
- 21) No oral understanding or agreement shall be binding on either party.

6) Evaluation Process

- 1) At the time of proposal opening, each proposal will be checked for the presence or absence of required information in conformance with the submission requirements of this RFP.
- 2) Proposals that contain false or misleading statements, or which provide references which do not support an attribute or condition claimed by the proposer, may be rejected.
- 3) Award, if made, will be to the highest scored responsive proposal.
- 4) Proposal Evaluation: The proposals that meet the minimum qualifications will be evaluated and scored according to the criteria indicated below in two phases. The first phase will evaluate the written and cost proposal, including the workplan, qualifications and experience, bidder costs, staffing levels and conflict of interest. A minimum of 64 points must be achieved in this phase to be considered responsive. (A responsive proposal is one, which meets or exceeds the requirements stated in this RFP.) The second phase consists of an Oral Interview. Bidders with proposals that have a combined score of at least 64 (out of a possible 80) will be granted a follow-up, in-person interview with Energy Division staff. The purpose of the interview is to ask any follow up or clarifying questions regarding the proposal.

Rating/Scoring Criteria

Maximum Possible Points

Proposed Work Plan

20

Proposed work plan demonstrating a clear understanding of the focus and intent of the Cost-Effectiveness Study within the overall CSI Program Evaluation Plan; a practical approach to implementing the work; and the ability to competently complete the assigned tasks.

Experience and Qualifications of Team Members

20

Appropriate experience and skills for the individuals who will be doing the work

Bidder Costs

30

*The hourly rates quoted in the written proposal
Based on Bidders Cost Proposal Worksheet (Attachment 3).
Please see **Cost Detail Format and Requirements**
on page 11 for more details.*

Adequate Staffing Levels

5

*Sufficient staff time (minimum of 2500 hours)
and an appropriate commitment of senior staff*

Conflicts of Interest

5

*Potential conflicts of interest are either
extremely limited or issues of transparency
are thoroughly addressed in the written proposal*

Oral Interview

20

*In-person interview is granted to bidders who
have a combined score of over 64 on the written
proposal, including all the components above.*

Total Possible Points 100

7) Award and Protest

- 1) Notice of the proposed award shall be posted in a public place in the office the California Public Utilities Commission at 505 Van Ness Avenue, San Francisco, CA 94102 for five (5) working days prior to awarding the agreement.
- 2) If any proposer, prior to the award of agreement, files a protest with the California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102 and the Department of General Services, Office of Legal Services, 707 Third Street, 7th Floor, Suite 7-330, West Sacramento, CA 95605, on the grounds that the (protesting) proposer would have been awarded the contract had the agency correctly applied the evaluation standard in the RFP, or if the agency followed the evaluation and scoring methods in the RFP, the agreement shall not be awarded until either the protest has been withdrawn or the Department of General Services has decided the matter. It is suggested that you submit any protest by certified or registered mail.
- 3) Within five (5) days after filing the initial protest, the protesting proposer shall file with the Department of General Services, Office of Legal Services and the California Public Utilities Commission a detailed statement specifying the grounds for the protest.
- 4) Upon resolution of the protest and award of the agreement, Contractor must complete and submit to the awarding agency the Payee Data Record (STD 204), to determine if the Contractor is subject to state income tax withholding pursuant to California Revenue and Taxation Code Sections 18662 and 26131. This form can be found on the Internet at www.osp.dgs.ca.gov under the heading FORMS MANAGEMENT CENTER. No payment shall be made unless a completed STD 204 has been returned to the awarding agency.
- 5) Upon resolution of the protest and award of the agreement, Contractor must sign and submit to the awarding agency, *page one (1)* of the Contractor Certification Clauses (CCC), which can be found on the Internet at www.dgs.ca.gov/contracts.

8) Disposition of Proposals

- 1) Upon proposal opening, all documents submitted in response to this RFP will become the property of the State of California, and will be regarded as public records under the California Public Records Act (Government Code Section 6250 et seq.) and subject to review by the public.
- 2) Proposal packages may be returned only at the proposer's expense, unless such expense is waived by the awarding agency.

9) Agreement Execution and Performance

- 1) Performance shall start not later than 5 days, or on the express date set by the awarding agency and the Contractor, after all approvals have been obtained and the agreement is fully executed. Should the Contractor fail to commence work at the agreed upon time, the awarding agency, upon five (5) days written notice to the Contractor, reserves the right to terminate the agreement. In addition, the Contractor shall be liable to the State for the difference between Contractor's Proposal price and the actual cost of performing work by another contractor.
- 2) All performance under the agreement shall be completed on or before the termination date of the agreement.

D) Preference Programs

- 1) **Small Business Preference:** <http://www.pd.dgs.ca.gov/smbus/sbpref.htm>

About the Small Business Five Percent Bid Preference

The Small Business Procurement and Contract Act ([Government Code, Section 14835](#)) was enacted in 1973 to afford small businesses the same free enterprise opportunities as their non-small business-certified competitors.

What is the 5% Small Business Preference

State law allows [certified](#) small business (SB) and microbusiness (MB) firms and non-small businesses who subcontract with a certified SB/MB firm to receive a 5% bidding preference on applicable state solicitations. The effect of the preference is to help SBs/MBs be more competitive in the bid process, thereby enhancing state contract awards directly or indirectly to SB/MB. The preference is only used for computation purposes to determine the winning bidder, the contract is awarded at the actual bid amount.

Note: Prior to the review of preferences, the state's buyer will determine that bidders are responsive to the solicitation requirements, are responsible bidders and are otherwise eligible to receive the contract under all applicable laws and regulations.

General Rules Relating to the Small Business Preference

There are several general rules relating to the application of the small business preference:

- DGS-PD's preference programs for TACPA, EZA, LAMBRA, or the non-SB subcontracting preference cannot displace a direct award to a certified SB.
- In no event shall the SB preference or non-SB subcontracting preference exceed \$50,000 in any single bid.
- In no event shall the combined cost of available preferences exceed \$100,000.
- In the event of a tie between a SB/MB and a firm that is SB/MB and DVBE, the award shall be made to the firm that is SB/MB and DVBE.

Applying and Calculating the 5% Small Business Bid Preference

For specific information on how to apply and calculate the 5% Small Business Bid Preference, go to [Purchasing Authority Manual \(PAM\), Chapter 3, Socioeconomic and Environmental Programs, Topic 4](#).

Authority

- [Government Code, Section 14838\(b\)](#)
- [California Code of Regulations, Title 2, Section 1896.2](#)

Related Links

[SB Certification Benefits and Eligibility Requirements](#)
[SB/DVBE Services Home](#)

2) Non-Small Business Preference: <http://www.pd.dgs.ca.gov/deleg/nonSBLang.htm>

Required Non-SB Solicitation Language

**Required Solicitation Language for
Non-small Business Preference**

The language below must be included in all written solicitations except when conducting a SB/DVBE Option solicitation or if the acquisition is less than \$5,000.00 and price has been documented to be fair and reasonable.

"A five percent (5%) bid preference is available to a non-small business claiming twenty-five percent (25%) California certified small business subcontractor participation. If claiming the non-small business subcontractor preference, the bid response must include a list of the small business(es) with which you commit to subcontract in an amount of at least twenty-five percent (25%) of the net bid price with one or more California certified small businesses. Each listed certified small business must perform a "commercially useful function" in the performance of the contract as defined in Government Code Section 14837(d)(4).

The required list of California certified small business subcontracts must be attached to the bid response and must include the following: 1) subcontractor name, 2) address, 3) phone number, 4) a description of the work to be performed and/or products supplied, 5) and the dollar amount or percentage of the net bid price (as specified in the solicitation) per subcontractor.

Bidders claiming the five percent (5%) preference must commit to subcontract at least twenty-five percent (25%) of the net bid price with one or more California certified small businesses. Completed certification applications and required support documents must be submitted to the office of Small Business and DVBE Certification (OSDC) no later than 5:00 p.m. on the bid due date, and the OSDC must be able to approve the application as submitted. Questions regarding certification should be directed to the OSDC at (916) 375-4940."

3) Target Area Contract Preference Act (TACPA)
<http://www.pd.dgs.ca.gov/edip/lambra.htm>

Local Agency Military Base Recovery Area (LAMBRA) Act Standard Language

Government Code Section 7118, et. seq., provides that whenever a state agency prepares a solicitation for a goods or services contract in excess of \$100,000 and the worksite(s) is not fixed by the terms of the contract, a 5 percent bid preference will be granted to California-based bidders if they certify under penalty of perjury that no less than 50 percent of the labor required to perform a contract for goods, or 100 percent of the labor hours required to perform a contract for services are performed at an approved worksite(s) located in a local agency military base recovery area.

Bidders seeking to obtain a LAMBRA 5 percent preference must submit a completed STD Form 832 with or prior to their bid that includes the following:

1. All appropriate certifications.
2. The bidding firm's name and the name of all suppliers and subcontractors that will work with the bidder to fulfill the terms of the contract along with the address(es) of each of the worksite(s) and estimated labor hours.
3. Military Base Recovery Area name(s).

4. Bidder's original signature.
5. The bidder must indicate if seeking the additional 1 to 4 percent preference available for hiring persons with a high risk of unemployment, by checking the appropriate box.

A bidder who has claimed a LAMBRA preference(s) and is awarded the contract will be obligated to perform in accordance with preference(s) requested, provided that the LAMBRA preference(s) was granted in obtaining the contract.

Bidders should contact the State Trade and Commerce Agency at (916) 324-8211 to identify LAMBRA zone locations. Firms receiving LAMBRA preferences must report their labor hours. Reference the state contract on which the award is based for specific reporting requirements.

4) **Enterprise Zone Act (EZA)**

<http://www.pd.dgs.ca.gov/edip/ezalang.htm>

Enterprise Zone Act (EZA) Standard Language

Government Code Section 7070, et. seq., provides that California based bidders, shall be granted a 5% preference, not to exceed a maximum of \$50,000, whenever a state agency prepares a solicitation:

- a. For a goods contract in excess of \$100,000 and the worksite(s) is not fixed by the terms of the contract, if they demonstrate and certify, under penalty of perjury, that 50 percent of the labor hours required to manufacture the goods and perform the contract shall be accomplished at an approved worksite(s) located in an enterprise zone (Gov. Code 7084(a)).
- b. For a services contract in excess of \$100,000, and the worksite(s) is not fixed by the terms of the contract, if they demonstrate and certify, under penalty of perjury, that 90 percent of the labor hours required to perform the contract shall be accomplished at an approved worksite(s) located in an enterprise zone (Gov. Code 7084(b)).
- c. Where a bidder complies with Gov. Code Sections 7084(a), or 7084(b), and certifies, under penalty of perjury, to hire a specified percentage of persons living within a targeted employment area, or are enterprise zone eligible employees, those bidders shall be granted additional preferences according to the hiring percentages specified as follows:
 1. An additional one percent (1%) preference by certifying to hire employees equal to 5 to 9 percent of the workforce
 2. An additional two percent (2%) preference by certifying to hire employees equal to 10 to 14 percent of the workforce
 3. An additional three (3%) preference by certifying to hire employees equal to 15 to 19 percent of the workforce
 4. An additional four (4%) preference by certifying to hire employees equal to 20 or more percent of the workforce
- d. The maximum that can be awarded for this and any other provision of law is limited to 15 percent, nor shall the combination of all preferences allowable by law exceed one hundred thousand (\$100,000) dollars.

Bidders seeking to obtain an EZA 5 % preference must submit a completed STD Form 831 with or prior to their bid that includes the following:

1. All appropriate certifications.
2. The bidding firm's name and the name of all suppliers and subcontractors that will work with the bidder to fulfill the terms of the contract along with the address(es) of each of the worksite(s) and estimated

labor hours.

3. Enterprise zone name(s)
4. Bidder's original signature.
5. The bidder must indicate if seeking the additional 1 to 4 percent preference available for hiring persons with a high risk of unemployment, by checking the appropriate box.

A bidder who has claimed an EZA preference(s) and is awarded the contract will be obligated to perform in accordance with preference(s) requested, provided that the EZA preference(s) was granted in obtaining the contract.

Bidders should contact the city or county economic development office or the State Trade and Commerce Agency at (916) 324-8211 to identify enterprise zone locations. Firms receiving EZA preferences must report their labor hours. Reference the state contract on which the award is based for specific reporting requirements.

5) Local Agency Military Base Recovery Area (LAMBRA) Act Standard Language
<http://www.pd.dgs.ca.gov/edip/lambralang.htm>

Local Agency Military Base Recovery Area (LAMBRA) Act Standard Language

Government Code Section 7118, et. seq., provides that whenever a state agency prepares a solicitation for a goods or services contract in excess of \$100,000 and the worksite(s) is not fixed by the terms of the contract, a 5 percent bid preference will be granted to California-based bidders if they certify under penalty of perjury that no less than 50 percent of the labor required to perform a contract for goods, or 100 percent of the labor hours required to perform a contract for services are performed at an approved worksite(s) located in a local agency military base recovery area.

Bidders seeking to obtain a LAMBRA 5 percent preference must submit a completed STD Form 832 with or prior to their bid that includes the following:

1. All appropriate certifications.
2. The bidding firm's name and the name of all suppliers and subcontractors that will work with the bidder to fulfill the terms of the contract along with the address(es) of each of the worksite(s) and estimated labor hours.
3. Military Base Recovery Area name(s).
4. Bidder's original signature.
5. The bidder must indicate if seeking the additional 1 to 4 percent preference available for hiring persons with a high risk of unemployment, by checking the appropriate box.

A bidder who has claimed a LAMBRA preference(s) and is awarded the contract will be obligated to perform in accordance with preference(s) requested, provided that the LAMBRA preference(s) was granted in obtaining the contract.

Bidders should contact the State Trade and Commerce Agency at (916) 324-8211 to identify LAMBRA zone locations. Firms receiving LAMBRA preferences must report their labor hours. Reference the state contract on which the award is based for specific reporting requirements.

6) Preference Program Requirements Summary – TACPA, EZA, and LAMBRA
<http://www.pd.dgs.ca.gov/edip/att31001.htm>

Preference Program Requirements Summary

Target Area Contract Preference Act (TACPA), Enterprise Zone Act (EZA), and the Local Agency Military Recovery Area Act (LAMBRA) PROGRAM REQUIREMENTS SUMMARY

Under the provisions of the TACPA, Government Code Section 4530 et seq., EZA, Government Code Section 7070 et seq., and LAMBRA, Government Code Section 7118 et seq., preferences are available to California based companies that demonstrate and certify under penalty of perjury that at least 50% of the total labor hours for manufactured goods, or 90% of the total labor hours for services will be performed in distressed areas. The Acts also make available additional preferences to California based bidders who certify under penalty of perjury to hire eligible persons in targeted employment areas. Bidders are not required to apply for TACPA/EZA/LAMBRA preferences, and denial of preference requests is not a basis for rejection of the bid.

Pre-award Demonstration Requirements

If bidders wish to be considered for the preferences, they must a) provide a reasonable demonstration of contract labor hours for the solicitation's corresponding industry and b) certify that they will comply with the requirements of these Acts. Bidders must complete and submit all included or referenced solicitation preference program forms to be considered for a preference.

- Preference Request Forms (Std. 830/831/832) for goods and services.
- Manufacturer Summary Form (DGS/PD525) for goods only.
- Bidder Summary Form (DGS/PD526) for goods and services.

It is the bidder's responsibility to clearly demonstrate its ability to comply with the terms and provisions of the preference programs which includes a description of the complete supply chain from manufacturer to point of delivery. The State, as part of its evaluation process, reserves the right to verify, validate, and clarify all information contained in the bid. This may include, but is not limited to, information from bidders, manufacturers, subcontractors and any other sources available at the time of bid evaluation. Refusal to agree to and/or comply with these terms, or failure to provide additional supporting information at the State's request, may result in denial of the preferences requested.

Contract Award Compliance Requirements

Contracts awarded with applied preferences will be monitored throughout the life of the contract for compliance with the statutory, regulatory, and contractual requirements. If awarded the contract, the contractor agrees to: (1) comply with the requirements of the Act(s) and with attendant rules and regulations, (2) allow the state contracting agency to have access to its facilities or premises to inspect, review, obtain and copy all records pertinent to the performance of the contract or to determine compliance with the Act(s), and (3) to retain such records for three years following final payment on the contract.

Contractors who receive a workforce preference agree, with respect to certification, to hire eligible persons with high risk of unemployment, or from high unemployment areas, and to act in good faith to retain the employees for the duration of the contract, and, if necessary, replace such persons with other persons meeting the same qualifications. Contractors are to promptly notify the State of the names of persons that have been terminated or who have been absent for more than three consecutive days to communicate the reasons for the termination or absence. Contractors agree, under such circumstances, to consult with the state contracting agency and the Employment Development Department with respect to replacement of such persons. Bidders should review the detailed requirements for TACPA at 2 CCR § 1896.40, Contract Provisions, and for EZA at 2 CCR §1896.110, Contract Provisions.

Contractors who do not comply with the preference reporting requirements or fail to provide the information

necessary to monitor compliance are subject to sanctions as set forth in the statutes.

7) DVBE Participation Program
<http://www.pd.dgs.ca.gov/dvbe/default.htm>

About the DVBE Participation Program

The Disabled Veteran Business Enterprise (DVBE) Participation Program was established to acknowledge disabled veterans for their service and to further DVBE participation in state contracting, promote competition and encourage greater economic opportunity.

The state established a DVBE participation goal of at least three percent. The goal applies to the total contract dollars expended each year by an awarding department. Each state agency establishes their own method for attaining the goal and they have the discretion to include the program goal within individual contracts. Every year, state agencies must also report to the governor and the legislature their total DVBE contracting participation. If the minimum three percent goal is not met, the state agency must provide their reasons for not meeting the goal and an implementation plan for future DVBE participation improvement. They may also be required to stand before a legislative panel to further clarify their results and efforts.

Added DVBE Incentive, Effective 10/09/07

The Department of General Services (DGS) established a DVBE incentive pursuant to SB115 chaptered October 3, 2005 and the Military and Veterans Code section 999.5(a). The new regulations apply to all competitive solicitations for public works, services, goods, and information technology goods and services posted or released after October 09, 2007. The DVBE incentive is required in solicitations that include DVBE program requirements and may be offered in other competitive solicitations.

The DVBE incentive offers state agencies a tool to increase their DVBE participation while still allowing the flexibility to exempt a contract from the participation requirement should the department deem it necessary. Each state agency should incorporate the use of the DVBE incentive into their plan or strategy to ensure achievement of at least three percent DVBE participation on their total contract dollars.

- [DVBE Incentive \(SB 115\)](#)

Added DVBE Participation Requirements, Effective 1/1/04

- DVBEs must perform a commercially useful function related to the contract's specifications.
- A DVBE that rents equipment to an awarding department is considered an equipment broker, unless one or more disabled veterans own 51% of the equipment with evidence to support the fact. This includes submitting to the Office of Small Business and DVBE Services (OSDS), a copy of the complete personal federal income tax return for each of the disabled veteran owners.
- DVBE brokers awarded a contract under the 3% goal provisions must disclose their broker status prior to contract performance.
- Equipment rented from DVBE equipment brokers cannot be credited towards the 3% participation goal.
- State agencies must not use a DVBE if the agency knows that the DVBE does not maintain certification requirements.

See [DVBE Program Changes](#) and [AB 669 Impact on Small Businesses & DVBEs & SB 1008 Impact on DVBEs](#).

Authority

[Public Contract Code, Section 10115](#)

[Military and Veterans Code, Section 999-999.13](#)

[California Code of Regulations, Sections 1896.60-1896.67 and 1896.90-1896.98](#)

ATTACHMENT 1

REQUIRED ATTACHMENT CHECK LIST

A complete proposal or proposal package will consist of the items identified below. Complete this checklist to confirm the items in your proposal. Place a check mark or "X" next to each item that you are submitting to the State. For your proposal to be responsive, all required attachments must be returned. This checklist should be returned with your proposal package also.

<u>Attachment</u>	<u>Attachment Name/Description</u>
_____ Attachment 1	Required Attachment Check List
_____ Attachment 2	Proposal/Proposer Certification Sheet
_____ Attachment 3	Cost Sheet
_____ Attachment 4	Proposer References*
_____ Attachment 5	California Disabled Veteran Business Enterprise Program Requirements Std. 840 Disabled Veteran Business Enterprise Participation Summary (Complete and Return this form - pages 32)
_____ Attachment 6	Payee Data Record (STD 204)
_____ Attachment 7	Contractor Certification Clauses (CCC - 307)
_____ Attachment 8	Target Area Contract Preference Act (TACPA) *
_____ Attachment 9	Enterprise Zone Act (EZA) *
_____ Attachment 10	Local Agency Military Base Recovery Area (LAMBRA) Act*

*Optional

ATTACHMENT 2

PROPOSAL/PROPOSER CERTIFICATION SHEET

This Proposal/Proposer Certification Sheet must be signed and returned along with all the "required attachments" as an entire package with original signatures. The proposal must be transmitted in a sealed envelope in accordance with RFP instructions.

Do not return Section C, Proposal Requirements and Information nor the "Sample Agreement" at the end of this RFP.

- A. Place all required attachments behind this certification sheet.
- B. I have read and understand the DVBE Participation requirements and have included documentation demonstrating that I have met the participation goals or have made a good faith effort.
- C. The signature affixed hereon and dated certifies compliance with all the requirements of this proposal document. The signature below authorizes the verification of this certification.

**An Unsigned Proposal/Proposer Certification Sheet
May Be Cause For Rejection**

1. Company Name	2. Telephone Number ()	2a. Fax Number ()
3. Address		
Indicate your organization type:		
4. ☐ Sole Proprietorship	5. ☐ Partnership	6. ☐ Corporation
Indicate the applicable employee and/or corporation number:		
7. Federal Employee ID No. (FEIN)	8. California Corporation No.	
9. Indicate applicable license and/or certification information:		
10. Proposer's Name (Print)	11. Title	
12. Signature	13. Date	
14. Are you certified with the Department of General Services, Office of Small Business Certification and Resources (OSBCR) as:		
a. California Small Business Yes ☐ No ☐ If yes, enter certification number: _____		
b. Disabled Veteran Business Enterprise Yes ☐ No ☐ If yes, enter your service code below: _____		
NOTE: A copy of your Certification is required to be included if either of the above items is checked "Yes". Date application was submitted to OSBCR, if an application is pending: _____		

Complete the numbered items on the
Proposal/Proposer Certification Sheet by following the instructions below.

Item Numbers	Instructions
1, 2, 2a, 3	Must be completed. These items are self-explanatory.
4	Check if your firm is a sole proprietorship. A sole proprietorship is a form of business in which one person owns all the assets of the business in contrast to a partnership and corporation. The sole proprietor is solely liable for all the debts of the business.
5	Check if your firm is a partnership. A partnership is a voluntary agreement between two or more competent persons to place their money, effects, labor, and skill, or some or all of them in lawful commerce or business, with the understanding that there shall be a proportional sharing of the profits and losses between them. An association of two or more persons to carry on, as co-owners, a business for profit.
6	Check if your firm is a corporation. A corporation is an artificial person or legal entity created by or under the authority of the laws of a state or nation, composed, in some rare instances, of a single person and his successors, being the incumbents of a particular office, but ordinarily consisting of an association of numerous individuals.
7	Enter your federal employee tax identification number.
8	Enter your corporation number assigned by the California Secretary of State's Office. This information is used for checking if a corporation is in good standing and qualified to conduct business in California.
9	Complete, if applicable, by indicating the type of license and/or certification that your firm possesses and that is required for the type of services being procured.
10, 11, 12, 13	Must be completed. These items are self-explanatory.
14	If certified as a California Small Business, place a check in the "yes" box, and enter your certification number on the line. If certified as a Disabled Veterans Business Enterprise, place a check in the "Yes" box and enter your service code on the line. If you are not certified to one or both, place a check in the "No" box. If your certification is pending, enter the date your application was submitted to OSBCR.

ATTACHMENT 3

SAMPLE COST PROPOSAL WORKSHEET

DIRECT LABOR	HOURS	RATE	TOTAL
Program Manager (Job Description)	_____	@ _____	_____
Staff Assistant (Job Description)	_____	@ _____	_____
Technician (Job Description)	_____	@ _____	_____
Clerical (Job Description)	_____	@ _____	_____
			\$ _____
SUBCONTRACTOR(S) COST ITEMIZED			\$ _____
INDIRECT COSTS (OVERHEAD AND FRINGE BENEFITS)			
Overhead Rate		_____	_____
Fringe Benefits		_____	_____
			\$ _____
DIRECT COSTS (EXCEPT LABOR)			
Travel Costs			_____
Equipment and Supplies (Itemized)			_____
Other Direct Costs (Itemized)			_____
			\$ _____
TOTAL COSTS			\$ _____

ATTACHMENT 4

PROPOSER REFERENCES

Submission of this attachment is optional. Failure to complete and return this attachment with your proposal will not cause your proposal to be rejected and deemed nonresponsive.

List below three references for services performed within the last five years, which are similar to the scope of work to be performed in this contract. If three references cannot be provided, please explain why on an attached sheet of paper.

REFERENCE 1

Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service	
Brief Description of Service Provided			

REFERENCE 2

Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service	
Brief Description of Service Provided			

REFERENCE 3

Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service	
Brief Description of Service Provided			

ATTACHMENT 5

CALIFORNIA DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PROGRAM REQUIREMENTS

(Revision Date 12/06/2007)

Please read the requirements and instructions carefully before you begin.

AUTHORITY. The Disabled Veteran Business Enterprise (DVBE) Participation Goal Program for State contracts is established in Public Contract Code (PCC), §10115 et seq., Military and Veterans Code (MVC), §999 et seq., and California Code of Regulations (CCR), Title 2, §1896.60 et seq.

The minimum DVBE participation percentage (goal) is 3% for this solicitation unless another percentage is specified in the solicitation.

INTRODUCTION. The bidder must complete the identified forms and fully document at least one of the options (A, B or C) in this document to comply with this solicitation's DVBE program requirements. Bids or proposals (hereafter called "bids") that **fail to submit all required forms and fully document and meet one of the DVBE program requirement options shall be considered non-responsive.**

Information submitted by the intended awardee to comply with this solicitation's DVBE requirements will be verified by the State. If evidence of an alleged violation is found during the verification process, the State shall initiate an investigation, in accordance with the requirements of the PCC §10115, et seq., and MVC §999 et seq., and follow the investigatory procedures required by the CCR §1896.80. Contractors found to be in violation of certain provisions may be subject to loss of certification, penalties and/or contract termination.

Only State of California, Office of Small Business and DVBE Services (OSDS), certified DVBEs (hereafter called "DVBE") who perform a commercially useful function relevant to this solicitation, may be used to satisfy the DVBE program requirements. The criteria and definition for performing a commercially useful function are contained herein on the page entitled **Resources & Information**. Bidders are to verify each DVBE subcontractor's certification with OSDS to ensure DVBE eligibility.

PLEASE READ ALL INSTRUCTIONS CAREFULLY. These instructions contain information about the DVBE program requirements, bidder responsibilities, requirements for performing and documenting each of the three available options (Option A, Option B, or Option C) as detailed below, and the DVBE Bid Incentive. Bidders are responsible for thorough review and compliance with these instructions. Complete and document your option selection and related information on the forms identified herein.

To meet the DVBE program requirements, bidders must complete and fully document at least one of the following compliance options:

Option A - Commitment to full DVBE participation - For a bidder who is a DVBE or who is able to meet the commitment to use identified certified DVBE(s) to fulfill the full DVBE participation goal.

Option B – Business Utilization Plan - For a bidder using an annual plan (subject to pre-bid submission approval) to satisfy DVBE participation requirements. Applies only to solicitations for goods and information technology.

OPTION A – COMMITMENT -- Commit to meet or exceed the DVBE participation requirement in this solicitation by either Method A1 (bidder is a California certified DVBE) or A2 (bidder is not a California certified DVBE). Bidders must document DVBE participation commitment by completing and submitting the attached Documentation of Disabled Veteran Business Enterprise Program Requirements (STD. 840) and the Bidder Declaration (GSPD-05-105) located elsewhere within the solicitation document. Failure to complete and submit the required forms as instructed shall render the bid non-responsive.

At the State's option prior to award of the contract, a written confirmation from each DVBE subcontractor identified on the Bidder Declaration must be provided. As directed by the State, the written confirmation must be signed by the bidder and/or the DVBE subcontractor(s). The written confirmation may request information that includes but is not limited to the DVBE scope of work, work to be performed by the DVBE, term of intended subcontract with the DVBE, anticipated dates the DVBE will perform required work, rate and conditions of payment, and total amount to be paid to the DVBE. If further verification is necessary, the State will obtain additional information to verify the above requirements.

Method A1. Certified DVBE bidder:

- a. Commit to performing at least 3% of the contract bid amount (unless otherwise specified) with the prime bidder's firm or in combination with another DVBE(s).
- b. Document option intention on the STD. 840 (Section A) and document DVBE participation on the Bidder Declaration GSPD-05-105.
- c. At the State's option a DVBE bidder working in combination with other DVBEs shall submit proof of its commitment by submitting a written confirmation from the DVBE(s) identified as a subcontractor on the Bidder Declaration. When requested, the document must be submitted to the address or facsimile number specified and within the timeframe identified in the notification. Failure to submit the written confirmation as specified may be grounds for bid rejection.

Method A2. Non-DVBE bidder:

- a. Commit to using certified DVBE(s) for at least 3% (unless otherwise specified) of the bid amount.
- b. When a bidder commits to less than the required 3% DVBE participation or its commitment may fall below 3% such as when specific line items/groups are not selected for award, then Option B, Good Faith Effort must be completed.
- c. Document option intention on the STD. 840 (Section A) and document DVBE participation on the Bidder Declaration GSPD-05-105. Note: If Option B is selected, see Good Faith Effort documentation requirements below.
- d. At the State's option prior to contract award, a bidder is to submit proof of its commitment by submitting a written confirmation from each DVBE identified as a subcontractor on the Bidder Declaration GSPD-05-105. The awarding department contracting official named in the solicitation may contact each listed DVBE, by mail, fax or telephone, for verification of the bidder's submitted DVBE information. When requested, the document must be submitted to the address or facsimile number specified and within the timeframe identified in the notification. Failure to submit the written confirmation as specified may be grounds for bid rejection.

OPTION B – THE DVBE BUSINESS UTILIZATION PLAN (BUP) option permits bidders to submit an approved DVBE BUP to satisfy DVBE participation solicitation requirements up to 3%. **DVBE BUPs apply only to solicitations for goods and Information Technology (IT) goods and services.** DVBE BUPs are a company's commitment to expend a minimum of 3% of its total statewide contract dollars with DVBEs -- this percentage is based on all of its contracts held in California, not just those with the State. DVBE BUPs must be submitted to and approved by the DGS-PD prior to the bid due date. Please call the DGS-PD, Office of Small Business and DVBE Services for assistance. Bidders choosing this option must properly complete and submit STD. 840 (Section A), the Bidders Declaration (GSPD-05-

105), and include a copy of its approval letter with the bid; failure to submit these documents shall render your bid non-responsive.

DVBE BID INCENTIVE. Unless stated elsewhere in the solicitation that the DVBE incentive has been waived, in accordance with Section 999.5(a) of the Military and Veterans Code an incentive will be given to bidders who provide DVBE participation. For evaluation purposes only, the State shall apply an incentive to bids that propose California certified DVBE participation as identified on the Bidder Declaration GSPD-05-105 and confirmed by the State. The incentive amount for awards based on low price will vary in conjunction with the percentage of DVBE participation. Unless a table that replaces the one below has been expressly established elsewhere within the solicitation, the following percentages will apply for awards based on low price.

Confirmed DVBE Participation of:	DVBE Incentive:
5% or Over	5%
4% to 4.99% inclusive	4%

As applicable: (1) Awards based on low price - the net bid price of responsive bids will be reduced (for evaluation purposes only) by the amount of DVBE incentive as applied to the lowest responsive net bid price. If the #1 ranked responsive, responsible bid is a California certified small business, the only bidders eligible for the incentive will be California certified small businesses. The incentive adjustment for awards based on low price cannot exceed 5% or \$100,000, whichever is less, of the #1 ranked net bid price. When used in combination with a preference adjustment, the cumulative adjustment amount is not to exceed \$100,000.

(2) Awards based on highest score – Incentive points shall not exceed 5 percent, nor be less than 4 percent of total possible points, not including points for socio economic incentives or preferences.

RESOURCES AND INFORMATION

For questions regarding bid documentation requirements, **contact the contracting official at the awarding department for this solicitation.** In accordance with Public Contract Code Section 10115.2(b)(3), bidders must advertise in trade and focus publications unless the requirement is waived. The Department of General Services, Procurement Division (DGS-PD) publishes a list of trade and focus publications to assist bidders in meeting these contract requirements. To obtain this list, please contact the DGS-PD Office of Small Business and DVBE Services and request the "DVBE Resource Packet."

U.S. Small Business Administration (SBA):
Use the Central Contractor Registration (CCR) on-line database.
Internet contact only –Database: www.ccr.gov/.

FOR:
Service-Disabled Veteran-owned businesses in California (Remember to verify each DVBE's California certification.)

Local Organizations (see the DVBE Resource Packet available from DGS-PD DVBE Program Section listed below)

FOR:
List of potential DVBE subcontractors

DGS-PD Office of Small Business and DVBE Services (OSDS)
707 Third Street, Room 1-400, West Sacramento, CA 95605

Website: www.pd.dgs.ca.gov/smbus

OSDS Receptionist, 8 am-5 pm: (916) 375-4940

PD Receptionist, 8 am-5 pm: (800) 559-5529

Fax: (916) 375-4950

Email: osdchelp@dgs.ca.gov

FOR:

- Directory of California-Certified DVBEs
- Certification Applications
- Certification Information
- Certification Status, Concerns
- General DVBE Program Info.
- DVBE Resource Packet
- DVBE Business Utilization Plan
- Small Business/DVBE Advocates

ADVERTISEMENT FORMAT EXAMPLE

This example offers a suggested format that includes required information outlined in Option B, Good Faith Effort, Step 3. You can substitute the applicable information for the bolded, italicized words.

DVBEs are invited to participate as a potential subcontractor to perform a commercially useful function specific to **DGS' IFB No. 12345** for ***fencing materials in Chowchilla.***

***DVBE responses due to me 1/1/02;
Bids due to the State 1/15/02.***

Contact: **ABC Company**
Jane Doe, General Manager
123 Main Street, Sacramento, CA 95814
voice: **555/555-5555**; fax: **555/555-5556**
or e-mail: ***jane.doe@abcco.com***

Commercially Useful Function Definition

California Code of Regulations, Title 2, § 1896.61(l):

The term "DVBE contractor, subcontractor or supplier" means any person or entity that satisfies the ownership (or management) and control requirements of §1896.61(f); is certified in accordance with §1896.70; and provides services or goods that contribute to the fulfillment of the contract requirements by performing a commercially useful function.

As defined in MVC §999, a person or an entity is deemed to perform a "commercially useful function" if a person or entity does **all** of the following:

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

A contractor, subcontractor, or supplier will not be considered to perform a commercially useful function if the contractor's, subcontractor's, or supplier's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of disabled veteran business enterprise participation.

DOCUMENTATION OF DISABLED VETERAN BUSINESS ENTERPRISE PROGRAM REQUIREMENTS

STD. 840 CPUC

Section A. Designation Of Option – Check the appropriate box(es) to indicate the option(s) with which you choose to comply, complete the applicable sections and attach the required supporting documentation. You are advised to read all instructions carefully prior to completing this form. Remember that only California certified DVBEs who can provide related goods and/or services may be used to satisfy these program solicitation requirements. DVBEs must perform a commercially useful function. During contract performance, all requests for substituting DVBE subcontractors must be made in accordance with the provisions of California Code of Regulations, Title 2, §1896.64(c).

☐ **OPTION A – *I commit to meeting the full DVBE Agreement participation requirement.***

Complete: STD. 840, Section A (check the box on this form) and
Bidder Declaration form GSPD-05-105 (located elsewhere in the solicitation)

☐ **OPTION B – *submit a copy of my firm's "Notice of Approved DVBE Business Utilization Plan."***

Complete: STD. 840, Section A (check the box on this form) and
Bidder Declaration form GSPD-05-105 (located elsewhere in the solicitation)

By (Authorized Signature)

Printed Name and Title of Person Signing

Date Executed

Executed in the County of

DVBE Program Requirements Supplier Checklist (Rev. 2-28-2005)

Please do not submit this checklist with your bid. It is provided for your use only. Checking every box of your elected compliance option does not guarantee that your bid will be deemed compliant.

☐ **OPTION A: COMMITMENT TO DVBE AGREEMENT PARTICIPATION**

- ☐ STD. 840 included with bid
- ☐ Designated the Commitment Option in Section A – Checked the first box of the form STD. 840
- ☐ Bidder Declaration form GSPD-05-105 completed and included with bid
- ☐ Proposed DVBE participation meets the 3% requirement (unless a different percentage is specified)

☐ **OPTION B: BUSINESS UTILIZATION PLAN (BUP)**

- ☐ ***Prior to the bid due date*** – Submitted a BUP to DGS-PD and received approval
- ☐ STD. 840 included with bid
- ☐ Designated the BUP Option in Section A – Checked the third box of the form STD. 840
- ☐ Attached a copy of the BUP Approval letter from DGS-PD
- ☐ Bidder Declaration form GSPD-05-105 completed and included with bid

DVBE PROGRAM REQUIREMENTS / VIOLATIONS AT-A-GLANCE

To enable State of California contractors and contracting officials to better understand, identify, and report cases of potential DVBE program violations, they must be aware of the requirements placed on Disabled Veteran Business Enterprise (DVBE) contractors, subcontractors or suppliers to provide a “commercially useful function.” They also need to be aware of and understand the requirements placed on the qualifying disabled veteran(s) to maintain at least 51% management and operational control of the DVBE to remain eligible for certification as a DVBE.

This information is meant to provide a general understanding of the regulations relevant to program violations related to the DVBE Participation Program. The information found herein has been excerpted and paraphrased from the actual codes and regulations. Readers should refer to the actual code or regulation referenced for complete information.

Assembly Bill (AB) 669 and Senate Bill (SB) 1008 were signed by the Governor and take effect 1-1-04.

Assembly Bill 669 amends language in Military and Veterans Code Section 999. Senate Bill also amends language in Military and Veterans Code Section 999 and adds to Public Contract Code Section 10115.9. **Legislative changes are provided in bold and indicate that they are effective 1-1-04.**

OWNERSHIP AND MANAGEMENT / OPERATIONAL CONTROL REQUIREMENTS FOR DISABLED VETERAN BUSINESS ENTERPRISE(S)

Military and Veterans Code Section 999(g):

To meet certification requirements and retain eligibility, one or more disabled veterans must own at least 51% of the business. Additionally, daily business operations must be managed and controlled by one or more disabled veterans [the disabled veteran(s) who manages and controls the business is not required to be the disabled veteran business owner(s)]. **Effective 1-1-04, AB 669 amends Military and Veterans Code Section 999(f) to require that the disabled veteran be domiciled in the State of California. Effective 1-1-04, SB 1008 added to Public Contract Code Section 10115.9: A limited liability company may be certified as a DVBE pursuant to this article if the limited liability company is wholly owned by one or more disabled veterans.**

California Code of Regulations, Title 2, § 1896.61(f):

To meet certification requirements and retain eligibility, the qualifying disabled veteran(s) must maintain management and operational control of the business. To have operational control, the qualifying disabled veteran(s) must demonstrate that he/she independently makes basic decisions in daily operations. He or she must maintain an active role in controlling the business. No formal or informal restrictions may exist to limit voting power or control of the business by the qualifying disabled veteran(s).

The qualifying disabled veteran(s) controls the operation of the firm in the following areas:

1. Financial
2. Bonding
3. Supervision-direct responsibility for subordinates
4. Work Force-direct responsibility for subordinates or subcontractors
5. Equipment
6. Materials
7. Facilities (office/yard)

The qualifying disabled veteran(s) must be personally responsible for at least one of the following:

1. Negotiations, execution and signature of contracts.
2. Execution (signature) of financial transactions and agreements (credit, banking, bonding).

COMMERCIALLY USEFUL FUNCTION DEFINITION

California Code of Regulations, Title 2, § 1896.61(l) and Military and Veterans Code 999(e) (2):

The term "DVBE contractor, subcontractor or supplier" means any person or entity that satisfies the ownership (or management) and control requirements of Section 1896.61(f); is certified in accordance with Section 1896.70; and provides services or goods that contribute to the fulfillment of the contract requirements by performing a commercially useful function.

Effective 1-1-04, AB 669 amended Military and Veterans Code 999(f) to include the requirement for the DVBE to perform a "commercially useful function," and added to the definition as indicated in bold below. Note: AB 669 also amended GC 14837 to require that certified small businesses and microbusinesses must also perform a commercially useful function.

A DVBE contractor, subcontractor or supplier (person or entity) is considered performing a commercially useful function when it meets the following criteria:

1. The business concern, person or entity is: responsible for the execution of a distinct element of the work of the contract; carrying out its obligation by actually performing, managing or supervising the work involved; and performing work that is normal for its business services and functions, and
2. The business concern, person or entity is not further subcontracting a greater portion of the work than would be expected by normal industry practices.

A DVBE contractor, subcontractor or supplier (person or entity) will not be considered to perform a commercially useful function if the contractor's, subcontractor's, or supplier's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of disabled veteran business enterprise participation. (Military and Veterans Code 999(f) (2) (B), effective 1-1-04.)

Effective 1-1-04, SB 1008 amends Military and Veterans Code 999.2 to add:

(b) For purposes of this section:

(1) "Broker" or "agent" means any individual or entity, or any combination thereof, that does not have title, possession, control, and risk of loss of materials, supplies, services, or equipment provided to an awarding department, unless one or more certified disabled veterans has 51 percent ownership of the quantity and value of the materials, supplies, services, and of each piece of equipment provided under the contract.

(2) "Equipment" means any piece of equipment that is used or provided for rental to any state agency, department, officer, or other state governmental entity, including equipment for which operators are provided.

(3) "Equipment broker" means any broker or agent who rents equipment to an awarding department.

(c) A disabled veteran business enterprise that rents equipment to an awarding department shall be deemed to be an equipment broker unless one or more disabled veterans has 51-percent ownership of the quantity and the value of each piece of equipment. If the equipment is owned by one or more disabled veterans, each disabled veteran owner shall, prior to performance under any contract, submit to the awarding department a declaration signed by the disabled veteran owner stating that the owner is a disabled veteran and providing the name, address, telephone number, and tax identification number of the disabled veteran owner. Each disabled veteran owner shall submit his or her federal income tax returns to the administering agency pursuant to subdivision (g) as if he or she were a disabled veteran business enterprise. The disabled veteran business enterprise of a disabled veteran owner who fails to submit his or her tax returns will be deemed to be an equipment broker.

(d) A disabled veteran business enterprise that rents equipment to an awarding department shall, prior to performing the contract, submit to the awarding department a declaration signed by each disabled veteran owner and manager of the enterprise stating that the enterprise obtained the contract by representing that the enterprise was a disabled veteran business enterprise meeting and maintaining all of the requirements of a disabled veteran business enterprise. The declaration shall include the name, address, telephone number, and tax identification number of the owner of each piece of equipment identified in the contract.

(e) State funds expended for equipment rented from equipment brokers pursuant to contracts awarded under this section shall not be credited toward the 3-percent goal.

(f) A disabled veteran business enterprise that is a broker or agent and that obtains a contract pursuant to subdivision (a) shall, prior to performing the contract, disclose to the awarding department that the business is a broker or agent. The disclosure shall be made in a declaration signed and executed by each disabled veteran owner and manager of the enterprise, declaring that the enterprise is a broker or agent, and identifying the name, address, and telephone number of the principal for whom the enterprise is acting as a broker or agent.

(g) (1) A disabled veteran business enterprise, and each owner thereof, shall, at the time of certification, submit to the administering agency complete copies of the enterprise's federal income tax returns for the three previous tax years.

(2) A disabled veteran business enterprise, and each owner thereof, shall submit to the administering agency complete copies of the enterprise's federal income tax returns that have a post certification due date, on or before the due date, including extensions.

(3) A disabled veteran business enterprise that, and each owner thereof who, has not submitted to the administering agency complete copies of the enterprise's federal income tax returns for the three tax years preceding certification nor for each post certification tax year for which a return was required to be filed, shall have 90 days to submit those returns.

(4) A disabled veteran business enterprise that fails to comply with any provision of this subdivision shall be prohibited from participating in any state contract until the disabled veteran business enterprise complies with the provisions of this subdivision. Funds expended involving a disabled veteran business enterprise during any period in which that enterprise is not in compliance with the provisions of this subdivision shall not be credited toward the awarding department's 3-percent goal.

(h) A disabled veteran business enterprise that fails to maintain the certification requirements set forth in this article shall immediately notify the awarding department and the administering agency of that failure by filing a notice of failure that states with particularity each requirement the disabled veteran business enterprise has failed to maintain.

Effective 1-1-04, SB 1008 also amends Military and Veterans Code 999.5(c) to read: An awarding department shall not credit toward the department's 3 percent goal state funds expended on a contract with a DVBE that does not meet and maintain the certification requirements.

the administering agency of that failure by filing a notice of failure that states with particularity each requirement the disabled veteran business enterprise has failed to maintain.

Effective 1-1-04, SB 1008 also amends Military and Veterans Code 999.5(c) to read: An awarding department shall not credit toward the department's 3 percent goal state funds expended on a contract with a DVBE that does not meet and maintain the certification requirements.

DVBE PROGRAM VIOLATIONS

Military & Veterans Code 999.9 (a)(1-5) and Public Contract Code (PCC) 10115.10 (a)(1-5):

Effective 1-1-04, SB 1008 adds to Military & Veterans Code 999.9 as indicated below in bold.

It is unlawful for a person or firm to:

- Knowingly and with intent to defraud, or fraudulently obtain or retain Disabled Veteran Business Enterprise (DVBE) certification.
- Willfully and knowingly make a false statement with the intent to defraud, or to influence any entity's DVBE certification.
- Willfully and knowingly obstruct, impede or attempt to obstruct or impede any state official or employee who is investigating a business entity's qualifications regarding the requested acceptance or certification as a DVBE.
- Knowingly and with intent to defraud, obtaining or attempting to obtain public monies, contracts, or funds expended under a contract, that are awarded by any state agency, department, officer, or other state government agency, to which the person is not entitled under the DVBE Participation Program.
- Knowingly and with intent to defraud, fraudulently represent participation or a DVBE in order to obtain or retain a bid preference or a state contract.
- Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document.
- Willfully and knowingly aid or assist in, or procure, counsel, or advise, the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document.
- Willfully and knowingly fail to file any declaration or notice with the awarding agency that is required by Section 999.2.
- Establish, or knowingly aid in the establishment of, or exercise control over, a firm found to have violated any of paragraphs above.

VIOLATIONS ARE MISDEMEANORS AND PUNISHABLE BY IMPRISONMENT OR FINE AND VIOLATORS ARE LIABLE FOR CIVIL PENALTIES

Military and Veterans Code 999.9 (b):

Effective 101-04, SB 1008 amended Military and Veterans Code 999.9 (b) as indicated in bold. Any person who violates any of the provisions of Military and Veterans Code 999.9, subdivision (a), shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months or by a fine not exceeding one thousand dollars (\$1,000), or by both. In addition, the person shall be liable for a civil penalty of not less than ten thousand dollars (\$10,000) nor more than thirty thousand dollars (\$30,000) for the first violation, and a civil penalty of not less than thirty thousand dollars (\$30,000) nor more than fifty thousand dollars (\$50,000) for each additional or subsequent violation. A defendant who violates any of the provisions of subdivision (a) shall pay all costs and attorney's fees incurred by the plaintiff in a civil action brought pursuant to this section.

VIOLATIONS ARE SUBJECT TO SUSPENSION BY DGS

Military and Veterans Code 999.9 (c):

Effective 101-04, SB 1008 amended Military and Veterans Code 999.9 (c) as indicated in bold.

- The Department of General Services shall suspend any person who violates subdivision (a) from bidding on, or participating as either a contractor, subcontractor, or supplier in, any state contract or project for a period of not less than three years, and if certified as a disabled veteran business enterprise, the department shall revoke the business' certification for a period of not less than three years. An additional or subsequent violation shall extend the periods of suspension and revocation for a period of not less than five years. The suspension and revocation shall apply to the principals of the business and any subsequent business formed or financed by, or affiliated with, those principals.
- The Department of General Services shall prohibit any business or person who fails to satisfy the penalties, costs, and attorney's fees imposed pursuant to subdivision (b) from further contracting with the state until the penalties are satisfied.

REPORTING SUSPECTED DVBE PROGRAM VIOLATIONS

Military and Veterans Code 999.9 (d) and Public Contract Code § 10115.10 (a)(1-5):

Program violations should be reported to the awarding department. Awarding agencies will investigate and report all alleged DVBE Participation Program violations to the Procurement Division, Office of Small Business and DVBE Certification (OSDC). The Procurement Division, Office of Small Business and DVBE Certification (OSDC), will subsequently forward the allegations to the attorney general for possible action.

ASSISTANCE WITH SUSPECTED PROGRAM VIOLATIONS

Questions related to reporting potential DVBE program abuse, "commercially useful function," ownership and management and control by the qualifying disabled veteran(s), or the identity of the qualifying disabled veteran(s), should be directed to:

Gloria Anderson, Certification Administration and Compliance Manager, OSDS

Phone: 800.559.5529 or 916.375.4936

E-mail: gloria.anderson@dgs.ca.gov

Fax: 916.375.4950

Revised 11-17-03

NOTE: If a bidder fails to include a DVBE, or make a "Good Faith Effort", in his/her proposal, the proposer's bid will be automatically rejected by the CPUC's Contracts Officer.

(Required when receiving payment from the State of California in lieu of IRS W-9)

STD, 204 (Rev. 6-2003)

37

PAYEE DATA RECORD

STD. 204 (Rev. 6-2003) (REVERSE)

1	<u>Requirement to Complete Payee Data Record, STD. 204</u> <i>A completed Payee Data Record, STD. 204, is required for payments to all non-governmental entities and will be kept on file at each State agency. Since each State agency with which you do business must have a separate STD. 204 on file, it is possible for a payee to receive this form from various State agencies.</i> Payees who do not wish to complete the STD. 204 may elect to not do business with the State. If the payee does not complete the STD. 204 and the required payee data is not otherwise provided, payment may be reduced for federal backup withholding and nonresident State income tax withholding. Amounts reported on Information Returns (1099) are in accordance with the Internal Revenue Code and the California Revenue and Taxation Code.								
2	Enter the payee's legal business name. Sole proprietorships must also include the owner's full name. An individual must list his/her full name. The mailing address should be the address at which the payee chooses to receive correspondence. Do not enter payment address or lock box information here.								
3	<i>Check the box that corresponds to the payee business type. Check only one box. Corporations must check the box that identifies the type of corporation. The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State provide their Taxpayer Identification Number (TIN). The TIN is required by the California Revenue and Taxation Code Section 18646 to facilitate tax compliance enforcement activities and the preparation of Form 1099 and other information returns as required by the Internal Revenue Code Section 6109(a).</i> The TIN for individuals and sole proprietorships is the Social Security Number (SSN). Only partnerships, estates, trusts, and corporations will enter their Federal Employer Identification Number (FEIN).								
4	<u>Are you a California resident or nonresident?</u> A corporation will be defined as a "resident" if it has a permanent place of business in California or is qualified through the Secretary of State to do business in California. A partnership is considered a resident partnership if it has a permanent place of business in California. An estate is a resident if the decedent was a California resident at time of death. A trust is a resident if at least one trustee is a California resident. For individuals and sole proprietors, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose that will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident. <i>Payments to all nonresidents may be subject to withholding. Nonresident payees performing services in California or receiving rent, lease, or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for State income taxes. However, no withholding is required if total payments to the payee are \$1,500 or less for the calendar year.</i> For information on Nonresident Withholding, contact the Franchise Tax Board at the numbers listed below: <table border="0"> <tr> <td>Withholding Services and Compliance Section:</td> <td>1-888-792-4900</td> <td>E-mail address:</td> <td>wscs.gen@ftb.ca.gov</td> </tr> <tr> <td>For hearing impaired with TDD, call:</td> <td>1-800-822-6268</td> <td>Website:</td> <td>www.ftb.ca.gov</td> </tr> </table>	Withholding Services and Compliance Section:	1-888-792-4900	E-mail address:	wscs.gen@ftb.ca.gov	For hearing impaired with TDD, call:	1-800-822-6268	Website:	www.ftb.ca.gov
Withholding Services and Compliance Section:	1-888-792-4900	E-mail address:	wscs.gen@ftb.ca.gov						
For hearing impaired with TDD, call:	1-800-822-6268	Website:	www.ftb.ca.gov						
5	Provide the name, title, signature, and telephone number of the individual completing this form. Provide the date the form was completed.								
6	This section must be completed by the State agency requesting the STD. 204.								

Privacy Statement

Section 7(b) of the Privacy Act of 1974 (Public Law 93-579) requires that any federal, State, or local governmental agency, which requests an individual to disclose their social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it.

It is mandatory to furnish the information requested. Federal law requires that payment for which the requested information is not provided is subject to federal backup withholding and State law imposes noncompliance penalties of up to \$20,000.

You have the right to access records containing your personal information, such as your SSN. To exercise that right, please contact the business services unit or the accounts payable unit of the State agency(ies) with which you transact that business.

All questions should be referred to the requesting State agency listed on the bottom front of this form.

ATTACHMENT 7

CONTRACTOR'S CERTIFICATION CLAUSES (CCC) – 307 Certification Clauses

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>	<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County of</i>

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the

certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person

rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

S:\ADMIN\HOMEPAGE\CCC\CCC-307.doc

F) Sample Standard Agreement (STD 213)

STATE OF CALIFORNIA
STANDARD AGREEMENT
 STD 213 (Rev 06/03)

	AGREEMENT NUMBER
	REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

CONTRACTOR'S NAME

2. The term of this Agreement is: through

3. The maximum amount of this Agreement is: \$

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	page(s)
Exhibit B – Budget Detail and Payment Provisions	page(s)
Exhibit C* – General Terms and Conditions	
Check mark one item below as Exhibit D:	
☐ Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement)	page(s)
☐ Exhibit - D* Special Terms and Conditions	
Exhibit E – Additional Provisions	page(s)

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		California Department of General Services Use Only
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)		
BY (Authorized Signature)	DATE SIGNED(Do not type)	
		
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS		
STATE OF CALIFORNIA		
AGENCY NAME		
BY (Authorized Signature)	DATE SIGNED(Do not type)	
		
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS		

☐ Exempt per:

EXHIBIT A

SCOPE OF WORK

1. Contractor agrees to provide to the California Public Utilities Commission (CPUC) Cost Effectiveness Evaluation services as described herein:
2. The services shall be performed at the CPUC's headquarters, the contractor's office, and other places as needed in performing the services of this contract.
3. The services shall be provided during mutually agreed upon working hours.
4. The project representatives during the term of this agreement will be:

State Agency: Public Utilities Commission	Contractor:
Name:	Name:
Phone:	Phone:
Fax:	Fax:

Direct all inquiries to:

State Agency Public Utilities Commission	Contractor:
Section/Unit: Contracts Office	Section/Unit:
Attention: Robert Smith	Attention:
Address: 505 Van Ness Ave, Room 2004 San Francisco, CA 94102	Address:
Phone: (415) 703-2482	Phone:
Fax: (415)703-5922	Fax:

5. Contractor will perform the following tasks as determined to be necessary by CPUC staff and the CPUC Project Manager:

EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.

B. Compensation

As compensation for the satisfactory completion of the services as specified in **Exhibit A**, Contractor shall be entitled to a sum not to exceed **\$ENTER AMOUNT** unless the amount is increased by amendment hereto as provided in Exhibit C. Payments not to exceed this total sum shall be made as set forth in the attached schedule. Billing rates shall be as specified in **Appendix 1**

C. Testifying

If the CPUC directs the Contractor to testify in support of the Contractor's work product(s), the Contractor shall be compensated for services related to the preparation and offer of testimony as described in **Exhibit A** at the rates specified in **Appendix 1**. Payment for attendance at such occasions shall be made only for those persons specified by the Commission's Project Manager.

D. Travel and Other Expenses

State will reimburse Contractor for reasonable travel expenses incurred in the performance of this Agreement. Reasonable travel expenses are defined as transportation, lodging, meals and incidental expenses in conformance with State rules and regulations. Travel expenses will be reimbursed at the same rate as provided for State management employees, as outlined in **Standard Form 262**. Total expenses claimed under this Agreement shall be included in the total amount encumbered (**\$ENTER AMOUNT**) under this Agreement.

E. Invoices

Invoices shall include the Agreement Number and shall be submitted in quadruplicate not more frequently than monthly in arrears to:

California Public Utilities Commission
Contracts Office, Room 2005
505 Van Ness Ave.
San Francisco, CA 94102

Said invoices will be subject to verification and approval by the Commission's Contract Manager and Project Managers, and shall include the name, address, and I.D. Number of the Contractor. Invoices shall also include a summary identifying the amount claimed for each task, the category(s) of professional services as identified in Contractor's Proposal/work plan or work order, the number of hours claimed for each task and the total claimed, a description of the labor services provided, the amount of the invoice, and an authorized Contractor signature. The invoice must also include a brief narrative progress report describing the context of the work completed during the invoice period. Travel expenses will be claimed in accordance with the regulations specified in Section 1.D above.

Progress payment will be made monthly, in arrears, on the basis of work performed towards completion of the contract deliverables. Ten percent (10%) retention shall be withheld from each

EXHIBIT B

invoice including billable hours and expenses. The retention shall become payable upon the satisfactory completion of the Agreement or at the completion of each separate task if the specific task is not a foundation for succeeding tasks leading to the completion of a finished project, report or plan.

2. **Budget Contingency Clause**

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

3. **Prompt Payment Clause**

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

EXHIBIT C

GTC 307

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. **APPROVAL**: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. **AMENDMENT**: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. **ASSIGNMENT**: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. **AUDIT**: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. **INDEMNIFICATION**: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. **DISPUTES**: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. **TERMINATION FOR CAUSE**: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

EXHIBIT C

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

EXHIBIT C

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

- 1). "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
- 2). "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: "For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a). The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department."

EXHIBIT C

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

S:\ADMIN\HOMEPAGE\GTC-307.doc

EXHIBIT D

SPECIAL TERMS AND CONDITIONS

1. Excise Tax

The State of California is exempt from federal excise taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.

2. Settlement of Disputes

In the event of a dispute, Contractor shall file a "Notice of Dispute" with the California Public Utilities Commission, Executive Director or designee within ten (10) days of discovery of the problem. Within ten (10) days, the Executive Director or designee shall meet with the Contractor and Project Manager for purposes of resolving the dispute. The decision of the Executive Director or designee shall be final.

In the event of a dispute, the language contained within this Agreement shall prevail over any other language including that of the bid proposal.

3. Evaluation of Contractor

Performance of the Contractor under this Agreement will be evaluated. The evaluation shall be prepared on Contract/Contractor Evaluation Sheet (STD 4), and maintained in the Agreement file. For consultant agreements, a copy of the evaluation will be sent to the Department of General Services, Office of Legal Services, if it is negative and over \$5,000.

4. Potential Subcontractors

Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

ADDITIONAL PROVISIONS

1. Consultant - Staff Expenses

The Contractor represents that it has or shall secure at its own expense, all staff required to perform the services described in this Agreement. Such personnel shall not be employees of or have any contractual relationship with any governmental entity.

2. Subcontracts

Contractor shall submit any proposed subcontracts to the State for its written approval before entering into the same. No work shall be subcontracted without the prior approval of the State. Upon termination of any sub-contract, the State shall be notified immediately.

If the terminated subcontractor is a DVBE, the contractor must replace the subcontractor within the same participation category and such replacement must be approved by the Commission. Failure to adhere to DVBE Participation may be cause for contract termination and recovery of damages under the rights and remedies due the state under the default section of the contract. The Agreement shall permit the State to audit the Contractor to verify compliance with DVBE regulations.

3. Relationship with Contractor and Subcontractor

Contractor shall be responsible for all actions of subcontractors and all payment to subcontractors. Failure of a subcontractor to perform for any reason shall not relieve Contractor of the responsibility for competent and timely performance of duties under this contract. Commission staff will not deal with subcontractors except through Contractor's Project Manager.

All requests for changes of work within this contract shall be in writing between the Project Manager for Commission and the Project Manager for Contractor.

4. Commission Staff

Commission staff will be permitted to work side by side with Contractor's staff to the extent and under conditions directed by the Commission's Project Manager. In this connection, Commission staff will be given access to all data, working papers, etc., which Contractor may seek to utilize.

5. Use of State Personnel

Contractor will not be permitted to use State personnel for the performance of services which are the responsibility of Contractor unless such use is previously agreed to in writing by the Commission's Project Manager, and an appropriate adjustment in price is made. No charge will be made to contractor for the services of State employees performing coordination or monitoring functions.

6. Changes in Time for Performance of Tasks

The time for performance of tasks and items within the budget, but not the total contract price, may be changed by written approval of the Commission's Project Manager. However, the date for completion, the total contract price, and scope, as well as, all other terms may be altered only by formal amendment of this contract.

7. Change of Personnel

Contractor and Subcontractor's key personnel as indicated in the attached resumes may not be substituted without the Commission's Contract Manager's prior written approval.

8. Ownership of Data

Data developed for this contract shall become the property of the State. It shall not be disclosed without the permission of the Commission's Project Manager. Each report shall also become the property of the State and shall not be disclosed except in such manner and such time as the Commission's Project Manager may direct, with the exception of data which have become part of the public records of the State, as discussed in Paragraph 9.

9. **Confidentiality of Data/Nondisclosure Agreement**

The Consultant ("Signatory"), by signing this Agreement agrees to perform the task(s) under this Agreement. The signatory recognizes that it must have full and unfettered access to information and documents within the knowledge and possession of various entities under the regulatory jurisdiction of the Commission. The Signatory also recognizes that some of this information may be proprietary, confidential, or privileged in nature.

The Signatory further recognizes that the Commission Staff has broad statutory authority to compel the production of such information subject to the provisions of Public Utilities Code 583 and General Order 66-C. The Signatory understands that these legal provisions generally preclude public disclosure of information obtained in confidence except during the course of a public hearing or with permission of the Commission.

The Signatory acknowledges that it has received a copy and read Public Utilities Code Section 583 and General Order 66-C, and agrees to be subject to and to fully comply with these legal provisions in discharging its responsibilities. Such compliance includes abiding by the terms of prohibiting public disclosure of confidential information and submitting to the jurisdiction of the Commission for the purposes of enforcing Public Utilities Code Section 583.

The Signatory further recognizes that much of the information obtained during the course of its work for the Commission may be subject to other privileges for nondisclosure, and may not be disclosed without the consent of the Commission or its Staff who include, but are not limited to, attorney work product privilege, the official information privilege, the attorney-client privilege, and other prohibitions precluding disclosure of confidential information.

The Signatory agrees not to disclose any information regarding its work to third parties except with the Commission Staff's express written consent, and to return all documents obtained during the course of the Agreement. The signatory agrees to notify the Commission Staff of any inquires and/or request for disclosure from any such third parties.

The Signatory will not comment publicly to the press or any other media regarding its work, or the Commission's action on the same, except to the Commission Staff, Signatory's own personnel and/or subcontractors involved in the completion of tasks under this agreement, or at a public hearing, or in response to questions from a legislative committee.

In addition, the Signatory agrees that prior to commencement of any work associated with this Agreement, the signatory shall: (1) provide a copy of this section of the Agreement, Public Utilities Code Section 583 and General Order 66-C to all who will be performing tasks under this Agreement; and (2) inform all those working under this Agreement that they are such to these legal provisions and must comply with Confidentiality of Data Agreement/Nondisclosure Section.

Ninety days after any document submitted has become a part of the public records of the State, Signatory may at its own expense, publish or utilize the same but shall include the following legend:

LEGAL NOTICE

This report was prepared as an account of work sponsored by the California Public Utilities Commission. It does not necessarily represent the views of the Commission or any of its employees except to the extent, if any, that it has formally been approved by the Commission at a public meeting. For information regarding any such action, communicate directly with the Commission at 505 Van Ness Avenue, San Francisco, California 94102. Neither the Commission nor the State of California, nor any officer, employee, or any of its contractors or subcontractors makes any warranty, express or implied, or assumes any legal liability whatsoever for the contents of this document.

10. **Termination-Bankruptcy**

In the event proceedings in bankruptcy are commenced against the Contractor, it is adjudged bankrupt, or a receiver is appointed and qualifies, the State may terminate this agreement by giving five days' notice in writing to the Contractor.

11. **Termination at State's Option**

State may at its option terminate this contract, with or without cause, at any time upon giving 30 days notice in writing to Contractor. In such event, Contractor agrees to use all reasonable efforts to mitigate its expenses and obligations hereunder. In such event, State shall pay Contractor for all satisfactory services rendered prior to such notice of termination and for all expenses incurred by Contractor prior to said termination which are not included in charges for service rendered prior to termination and which could not by reasonable efforts of Contractor have been avoided.

12. Termination in Event of Breach

In the event of any breach of this contract, the State may without any prejudices to any of its other legal remedies terminate this contract upon five days' written notice to the Contractor.

13. Waiver

No waiver of any breach of this contract shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this contract shall be taken and construed as cumulative: that is, in addition to every other remedy provided herein or by law. The failure of State to enforce at any time any of the provisions of this agreement, or to require at any time performance by Contractor of any of the provisions thereof, shall in no way be construed to be a waiver of such provision nor in any way to affect the validity of this agreement or any part thereof or the right of State to thereafter enforce each and every such provision.

14. Gratuities

- A. The State may, by written notice to the Contractor, terminate the right of Contractor to proceed under this contract if it is found, after notice and hearing by the State or by Executive Director of the Public Utilities Commission or duly authorized representative, that gratuities were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the State with a view toward securing a contract, securing favorable treatment with respect to award amendment, or the evaluation of performance of such contract, provided that the facts upon which either the Commission or the Executive Director makes such findings may be reviewed in any competent court.
- B. In the event this contract is terminated as provided in paragraph 14(A), State shall be entitled (i) to pursue the same remedies against Contractor as it could pursue in the event of the breach of the contract by the Contractor, and (ii) to a penalty in addition to any other damages to which it may be entitled by law, and to exemplary damages in an amount which shall be not less than three nor more than ten times the cost incurred by the Contractor in providing any such gratuities to any such officer or employee.

The rights and remedies of State provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

15. Conflict of Interest

Contractor agrees to refrain from entering into any relationship which could result in a conflict of interest in the performance of this Agreement; and to notify the Commission's Project Manager promptly of any potential conflict of interest, including subcontractors. The Commission may exercise its option to terminate this Agreement if a conflict is found.

16. Agreement is Complete

Other than as specified herein, no document or communication passing between the parties hereto shall be deemed a part of this Agreement.

17. Captions

The clause headings appearing in this agreement have been inserted for the purpose of convenience and ready reference. They do not purport to and shall not be deemed to define, limit, or extend the scope or intent to the clauses to which they appertain.

18. Force Majeure

Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of performance constitute default, if such delay or failure is caused by "Force Majeure." As used in this section, "Force Majeure" is defined as follows: Acts of war and acts of god such as earthquakes, floods and other natural disasters such that performance is impossible.

19. Counterparts (OPTIONAL)

For the convenience of the parties, any number of counterparts of this Agreement may be executed by the parties hereto. Each such counterpart shall, and shall be deemed to be, an original instrument, but all such counterparts taken together shall constitute one and the same agreement.

