

**State of California  
California Natural Resources Agency  
Department of Water Resources  
Power and Risk Office**



**REQUEST FOR PROPOSALS  
FOR  
PEARBLOSSOM SOLAR PROJECT**

**RFP NO. 10404729**

**May 2015**

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**Attachment 13 – Project Site Plan (see Pdf)**

**Attachment 14 – Project Licensed Area Geology & Topography (see Pdf)**

**Attachment 15 – Project Environmental Study (CEQA) (see Pdf)**

**Attachment 16 – Non-Disclosure Agreement (see Pdf)**

**Attachment 17 – Project Substation Single-Line-Diagram (see Pdf)**

**Attachment 18 – Site Discovery Tour Attendee Information Form (see Pdf)**

**Attachment 19 – Project Health, Safety and Environmental Guidelines (see Pdf)**

## **1.0 CDWR BACKGROUND**

The California Department of Water Resources (CDWR) manages the State Water Project (SWP), which is a system of pumping plants, power plants, dams, reservoirs, canals, and aqueducts constructed to deliver water for agricultural, industrial, and urban uses and to provide flood control, recreation, fish and wildlife enhancement, hydroelectric power, and other benefits. CDWR is also a wholesale power entity that is interconnected with the western United States transmission grid and operates as a Scheduling Coordinator (SC) with the California Independent System Operator (CAISO). This Request for Proposals (RFP) is issued pursuant to CDWR's responsibilities with respect to the SWP which is separate from and independent of the California Energy Resources Scheduling (CERS) division of CDWR for all purposes of this RFP. Additional information about CDWR is available on the following Internet sites:

- General information about CDWR: [www.water.ca.gov](http://www.water.ca.gov)
- General layout of the SWP: [www.water.ca.gov/swp/docs/SWPmap.pdf](http://www.water.ca.gov/swp/docs/SWPmap.pdf)
- CDWR's financial information: [www.water.ca.gov/publications/financials](http://www.water.ca.gov/publications/financials).

## **2.0 REQUEST FOR PROPOSALS PURPOSE**

In support of CDWR's plans to obtain renewable resources at competitive prices, CDWR is issuing this RFP from bidders (Proposer) for the design, fabrication, installation, operation, and maintenance of an estimated 9.5 MW solar photovoltaic (PV) energy generating facility (Project) at the CDWR-owned site shown on Attachment 13 – Project Site Plan and described in this RFP (Licensed Area). The Project award shall include a non-exclusive license to use the Licensed Area to install the Project. CDWR shall purchase the generation output (Product) through a Power Purchase Agreement (PPA). This Project is currently in the CAISO generator interconnection queue and has received its Phase II Interconnection Study results and Full Capacity Deliverability Status. Southern California Edison (SCE) is the Participating Transmission Owner (PTO). Minimum qualifications to bid on this RFP can be found in Attachment 9.

If a proposal is selected by CDWR as a result of this RFP, CDWR and the selected Proposer shall execute a Ground License Agreement (GLA) and PPA, each as described more fully herein, on the terms set forth herein or as otherwise to provide the best value to CDWR in its sole discretion.

Capitalized terms used in this RFP but not defined herein or statutorily defined shall have the meanings set forth in the CAISO tariff.

### **3.0 GROUND LICENSE AGREEMENT AND POWER PURCHASE AGREEMENT**

CDWR shall license the Licensed Area to the selected Proposer through a GLA for the purpose of developing the Project and selling the resulting Product to CDWR through a PPA. CDWR shall not accept proposals for projects on an alternate site. The selected Proposer shall pay CDWR a land license fee of \$38,000 annually upon execution of the GLA and through the Delivery Period, prorated as applicable.

Selected Proposer shall, at its sole cost, be responsible for removing the Project at the end of the Delivery Period and restoring the Licensed Area to its original condition.

#### Standard Contract Terms

The GLA and PPA shall contain standard provisions required by law, which include form GTC-610 (available for review at [www.documents.dgs.ca.gov/ols/GTC-610.doc](http://www.documents.dgs.ca.gov/ols/GTC-610.doc)) and CDWR form 9544 (Attachment 1 – Special Terms and Conditions). The GLA and PPA shall require the selected Proposer to comply with all applicable laws, including obtaining required permits and making representations concerning compliance with applicable laws (Attachment 8 – Contractor Certification Clauses). The Proposer is responsible for considering all laws applicable to licensing the land and selling the Product when developing and submitting the proposal.

### **4.0 PRODUCT**

The Product shall consist of PV generation from the Project that meets current eligibility requirements under California Renewables Portfolio Standard (RPS) as defined by law. The California RPS means the renewable energy program and policies established by California State Senate Bills 1038 (Stats 2002, ch. 516) and 1078 (States. 2009-2010, 4th Ex. Sess., ch. 11), codified in California Public Utilities Code Section 399.11 et seq, and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time. The Project must be pre-certified as an eligible renewable energy resource (ERR) by the California Energy Commission prior to the commercial operation date (COD) and certified throughout the Delivery Period.

The Product must be generated from the Project using technology that is commercially viable at the time of the RFP due date. CDWR shall not consider proposals using technology that is experimental or in prototype stage.

The Product shall include renewable energy, capacity, and all attributes including attributes used to qualify for Resource Adequacy Resource status, Ancillary Services,

and environmental attributes including renewable energy credits (RECs). CDWR shall also receive credit for CAISO IFM Load Uplift Obligations if applicable. CDWR shall not accept unbundled products.

#### **4.1 Third Party Sales**

Selected Proposer shall not sell Product to a third party. Proposer also shall not transfer or assign the Project to a third party without CDWR's consent. In the event selected Proposer chooses to sell the Project, and CDWR consents to the transfer, Proposer shall also provide CDWR with right of first offer.

#### **4.2 Delivery Period**

The delivery period shall be a minimum of 20 years and maximum of 30 years, with delivery commencing on the COD (Delivery Period).

#### **4.3 Contract Capacity and Quantity**

The contract capacity shall be 9.5 MWac as measured at and by the Project's CAISO revenue meter.

Proposer shall specify the annual contract quantity expected to be delivered each year of the proposed Delivery Period (Attachment 12) (Contract Quantity). The Proposer's bid package shall include the Project's energy simulation report in support of this Contract Quantity.

Proposer shall guarantee that the Project shall generate at least 85% of the stated annual Contract Quantity based on a calendar year (2) year true-up period beginning on COD with the first true-up occurring at the end of the 28<sup>th</sup> month. With the exception of (i) force majeure, (ii) curtailment due to a CAISO or PTO emergency order, and (iii) transmission outages, if the generation does not meet the guaranteed amount, the shortfall shall be subject to damages calculated at the Contract Price; the shortfall damages shall be netted from the amounts due from CDWR in the next invoice period.

#### **4.4 Outages**

The selected Proposer shall meet and coordinate with CDWR, and with CAISO and SCE as necessary, to develop operation procedures to safely manage and coordinate planned and unplanned outages. CDWR shall coordinate with the selected Proposer on an annual basis to schedule planned outages outside of peak production months.

#### **4.5 Delivery Point**

The Delivery Point shall be the Project Pnode at the point of interconnection with

CAISO.

#### 4.6 Contract Price

The contract price paid by CDWR for the Product shall be in nominal \$/MWh (Contract Price). **The Contract Price must be inclusive of all costs** including, but not limited to, the following:

- a) Costs for design, fabrication, Licensed Area development, GLA fees, transportation, installation, project management, permitting, electrical connection from the Project to existing transmission line (including equipment for Project's substation), testing, startup, troubleshooting, commissioning, equipment warranties, performance guarantees, insurance, financing, and other financial services and tasks as required to reliably develop, produce, schedule, and deliver the Product's generated energy to the Delivery Point for the Delivery Period. All equipment used to develop the Product shall be new and previously unused.
- b) Any post-COD costs to deliver the Product to the Delivery Point including but not limited to transmission; transmission-related costs; SC costs; and CAISO charges including charges associated with deviation between actual and scheduled generation, renewable integration charges, and any penalties related to the above.
- c) Costs associated with scheduling, forecasting, billing, settling, reconciliation, and administrative functions and services.
- d) Compliance costs and penalties from the North American Electric Reliability Corporation (NERC), the Peak Reliability, and Western Electricity Coordinating Council (WECC), if any.
- e) Cost to maintain California RPS certification and qualification.
- f) Taxes related to the generation and delivery of the Product up to and at the Delivery Point.
- g) Environmental permitting and monitoring costs (other than that California Environmental Quality Act (CEQA) work performed by CDWR), including greenhouse gas emissions or allowances, if any.
- h) Costs of registering in Western Renewable Energy Generation Information System (WREGIS) and any mandatory ongoing WREGIS costs and charges.
- i) If Proposer receives revenue for other Product attributes, this revenue shall be subtracted from CDWR's payment to Proposer.
- j) Costs associated with coordination efforts among selected Proposer, CAISO, CDWR, and SCE related to developing operation procedures for safely managing and coordinating planned and unplanned outages.
- k) Costs associated with maintaining the Project's voltage and reactive power schedule in accordance with NERC standard VAR-002-3.

The Contract Price shall reflect that CDWR is responsible for costs associated with geology studies provided in Attachment 14, the CEQA process provided in Attachments 15, and CAISO's Interconnection Facilities and Network Upgrade costs. The Project has also completed the CAISO interconnection study process and has received full TP Deliverability allocation.

#### **4.7 Payment and CAISO Market Mechanisms**

Under the current CAISO market design, CAISO will pay the facility's SC for the generation. To avoid a double payment to the selected Proposer and a double charge to DWR, DWR's payment to the selected Proposer will be adjusted to account for this payment from CAISO.

In any month during the Delivery Period, payment for the quantity of Product delivered shall be capped at 115% of the Contract Quantity.

#### **4.8 Scheduling Coordinator**

Selected Proposer shall be responsible for designating its own SC and for scheduling the Product with the CAISO at the Delivery Point. The SC shall be a certified SC authorized to transact business directly with the CAISO. CDWR shall not act as SC for the Product; however, CDWR reserves the right to exercise the option to take over the SC role and responsibility and shall provide 3 months' notice of this option. Prior to CDWR taking over as SC, the parties shall execute an amendment to the PPA detailing each party's roles and responsibilities during that period.

The SC role and responsibility shall include but not be limited to the following:

- Scheduling the Product in the CAISO Day-Ahead and/or Real-Time market consistent with the CAISO tariff.
- Bidding and complying with all CAISO scheduling requirements as necessary to provide CDWR with the Product
- Submitting to CDWR monthly, weekly and daily forecast schedules for the Delivery Period.
- Providing CDWR with read access to the CAISO market results interface (CMRI), CAISO's operational meter analysis and reporting (OMAR) and platforms for settlement reconciliation purposes.

## **5.0 FINANCIAL SECURITY**

### **5.1 Development Period Security (Pre-COD)**

Upon execution of the PPA, the selected Proposer shall post and thereafter maintain financial security in the form of a letter of credit from an issuer and in a form satisfactory to CDWR in the amount of \$1,000,000 (Development Period Security). The Development Period Security shall be maintained until the later of i) COD, ii) posting of the Delivery Period Security, or iii) satisfaction of all obligations secured by the Development Period Security.

### **5.2 Delivery Period Security**

Before declaring COD, the selected Proposer shall post, and thereafter maintain until all obligations under the PPA are satisfied, financial security in the form of a letter of credit from an issuer and in a form satisfactory to CDWR in the amount of \$2,000,000 (Delivery Period Security).

### **5.3 GLA Related Financial Security**

The selected Proposer shall post a financial security in the form of a letter of credit from an issuer and in a form satisfactory to CDWR in the amount of \$1,000,000 three (3) years prior to the termination of the Delivery Period under the PPA. This letter of credit is intended to secure the removal of the Project from the Licensed Area and return of the Licensed Area to its original condition.

## **6.0 INSURANCE**

Before the commencement of any work under the PPA and at all times during the Delivery Period, selected Proposer shall maintain at its own expense insurance policies for the Project, its fixtures, and other tangible assets in such amounts and against such risks and losses as are consistent with good industry practices for projects of similar size and nature including, but not limited to, general liability, worker's compensation, automobile liability, pollution liability insurance, and professional liability insurance, with responsible insurers who maintain a Standard & Poor's credit rating of at least "A-" or equivalent. Before the commencement of any work under the PPA, successful Proposer shall deliver to CDWR insurance endorsements and a certificate of insurance for any or all policies maintained in accordance with this Section 6, which certificate shall include at least the following information: (i) the name of the insurance company, policy number and expiration date; (ii) the coverage and limits on coverage, including the amount of deductibles or self-insured retentions; and (iii) proof of CDWR as an additional named beneficiary under such policies. Selected Proposer shall hold

harmless and indemnify CDWR from any direct or indirect losses and liability, including attorney's fees and costs of litigation, resulting from the injury or death of any person or damage to any property if (i) selected Proposer fails to comply with the provisions of this Section 6 and (ii) CDWR would have been protected had selected Proposer complied with the requirements of this Section 6.

- (a) General Liability – Selected Proposer shall maintain general liability with limits not less than one million dollars (\$1,000,000) for each occurrence and a general aggregate not less than three million dollars (\$3,000,000). The policy shall be endorsed to include CDWR and the State of California, its officers, agents, employees and servants as additional insureds. The additional insured endorsement shall be provided to CDWR.
- (b) Automobile Liability – Selected Proposer shall maintain motor vehicle liability with limits not less than one million dollars (\$1,000,000) combined single limit per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired and non-owned motor vehicles. The policy shall be endorsed to include CDWR and the State of California, its officers, agents, employees and servants as additional insureds. The additional insured endorsement shall be provided to CDWR.
- (c) Workers Compensation and Employers Liability – Selected Proposer shall maintain statutory worker's compensation and employer's liability coverage for all its employees who shall be engaged in the performance of the Agreement. Employer's liability insurance shall not be less than one million dollars (\$1,000,000) for injury or death occurring as a result of each accident. If work is performed on State owned or controlled property the workers' compensation policy shall contain a waiver of subrogation in favor of the State. The waiver of subrogation endorsement shall be provided to CDWR.
- (d) Pollution Liability – Selected Proposer shall maintain pollution liability coverage with limits not less than one million dollars (\$1,000,000) each incident and two million dollars (\$2,000,000) in aggregate. The policy shall be endorsed to include CDWR and the State of California, its officers, agents, employees and servants as additional insureds. The additional insured endorsement shall be provided to CDWR.
- (e) Professional Liability - Selected Proposer shall maintain professional liability coverage with limits not less than one million dollars (\$1,000,000) each incident and two million dollars (\$2,000,000) in aggregate. The policy shall be endorsed to include CDWR and the State of California, its officers, agents, employees and servants as additional insureds. The additional insured endorsement shall be provided to CDWR.

## **7.0 PROJECT SITE**

### **7.1 Location**

The proposed Project shall be co-located within the property boundary of CDWR's existing Pearblossom Pumping Plant (PBPP) located in northeastern Los Angeles County at 34534 116th Street East, Pearblossom, CA 93553; GPS Coordinates: 117.920590315 Longitude, 34.516656293 Latitude.

The available ground areas for development with easements and set-backs are shown in Attachment 13 – Project Site Plan.

### **7.2 Access and Security**

Access to the Licensed Area shall be near PBPP's main entrance on 116th Street East, about 0.2 miles north of Hwy 138, or as specified by CDWR. The Licensed Area shall be fully fenced off from PBPP facilities prior to commencement of construction, or mobilization for construction, of the Project such that the selected Proposer and its personnel shall have no access to PBPP facilities.

The selected Proposer shall be responsible for constructing the access and fencing off the Licensed Area, as directed by CDWR, and shall be compensated for such on a time and material basis to be submitted to CDWR for payment. The selected Proposer shall develop and submit an estimate of the cost for the time and materials necessary to construct and secure the access and install the fencing for CDWR approval.

The selected Proposer shall submit an equipment delivery schedule twenty-five (25) business days before the start of construction. The schedule shall include the dimensions of the delivery vehicle and its loaded weight.

CDWR shall not be responsible for maintaining security of the Project during construction and throughout the Delivery Period.

Caltrans plans to widen Highway 138, "Pearblossom Hwy," where it passes the south end of the Project area and expects work to occur during the summer of 2016. The selected Proposer shall coordinate with Caltrans with respect to equipment deliveries, dust mitigation, Licensed Area access, any required detours, and shall plan for any potential delays this work may create.

### **7.3 Geology and Topography**

Licensed Area geology and topography information is contained in Attachment 14. The selected Proposer shall be responsible for verifying site topographical conditions. The Licensed Area is otherwise provided in "as is" condition.

#### **7.4 Environmental and Permitting**

CDWR is responsible for the CEQA Project environmental review. CDWR adopted a Mitigated Negative Declaration for this Project, as shown in Attachment 15, and filed a Notice of Determination in April of 2014. The Licensed Area is exempt from local permitting; however, applicable federal and state permits (e.g., storm water pollution prevention plan, air quality permits) may be required, and the selected Proposer is responsible for insuring that all required permits are obtained. Developer shall be responsible for conducting environmental compliance monitoring to ensure compliance with all applicable permits. This includes, but is not limited to, procuring the services of a qualified biological monitor for listed species.

#### **7.5 Temporary Services during Construction**

The selected Proposer shall be responsible for providing any temporary services required during construction including water, power, and telecommunications services.

#### **7.6 Site Discovery**

CDWR will hold a **mandatory** pre-bid site discovery tour as noted in the section titled RFP SCHEDULE AND COMMUNICATION.

Prospective Proposers shall check-in with CDWR security outside the main entrance to PBPP located at 34534 116th Street East, Pearblossom, CA 93553 at the prescribed date and time.

Attendance is limited to two representatives per prospective Proposer and 30 attendees per tour. Proposers shall submit their preferred time on Attachment 18 – Site Discovery Attendee Information form no later than five (5) business days prior to the site discovery tour.

Only those prospective Proposers that properly submit Attachment 18 and meet the requirements in Attachment 9 – Minimum Qualifications may attend the site discovery tour.

The site discovery tours shall begin promptly at 9am and 1pm with visits limited to two (2) hours and will include a tour of the Licensed Area. Attendees shall come prepared to drive off road and up grades. Opened toed shoes are not permitted. Additional site discovery tours may be scheduled if necessary.

Questions resulting from the site discovery tour shall be submitted electronically as noted in the section titled RFP SCHEDULE AND COMMUNICATION.

## **7.7 Work Place Safety**

The selected Proposer shall comply with all federal and state laws and regulations related to workplace health and safety standards and Attachment 19 – Project Health, Safety and Environmental Guidelines.

## **8.0 TRANSMISSION**

The Project is currently in Queue Cluster 6 of the CAISO interconnection queue, and CAISO and SCE have performed and published the results of the Phase II Interconnection Study. The relevant portions of the Phase II Interconnection Study shall be provided to Proposers who attend the mandatory site discovery tour and execute the Non-Disclosure Agreement in Attachment 16.

CDWR may require the selected Proposer to become a co-tenant with CDWR to the Generator Interconnection Agreement (GIA), which shall be negotiated with CAISO and SCE. However, CDWR shall be the sole owner of the Interconnection Customer interconnection facilities, as defined by CAISO.

The selected Proposer shall be responsible for building those portions of the Project that are listed as the responsibility of the Interconnection Customer in the GIA. This includes but is not limited to any design, labor, equipment, material, and testing necessary for the installation of any structures and related equipment necessary to physically interconnect the Project to the CAISO Controlled Grid via CDWR's transmission system.

The selected Proposer must submit its design to CDWR for review and approval and comply with all CAISO, SCE, NERC, and WECC interconnection requirements.

In addition to the CAISO interconnection process, the selected Proposer must comply with all requirements deemed necessary by CDWR to interconnect to CDWR's transmission system and shall be responsible for rates and costs related to interconnecting the Project to CDWR's transmission system.

The selected Proposer shall coordinate any transmission line outages necessary for interconnection with CDWR and SCE, the PTO, and as necessary the CAISO.

## 9.0 TECHNICAL AND INSTALLATION SPECIFICATIONS

The Project shall be designed, constructed, and tested in accordance with the following applicable codes and standards in general and specifically as they relate to solar PV design, construction, testing and performance:

- California Energy Commission
- California Building Code
- National Electric Code
- Underwriters Laboratories
- Institute of Electronic and Electrical Engineers
- American Society of Mechanical Engineers
- American National Standards Institute.

The Project substation design shall be consistent with the single-line diagram shown in Attachment 17, stamped by a California Registered Electrical Engineer, and submitted to CDWR for review and approval.

The Project substation ground grid design and analysis shall be stamped by a California Registered Electrical Engineer and submitted to CDWR for review and approval.

The Project's inverters shall have the capability to produce or absorb reactive power in accordance with CAISO requirements and shall be designed to incorporate the following, most recent standards and guidelines:

- IEEE 1547
- NERC PRC 024-2
- NERC's Essential Reliability Task Force

Proposer shall comply with the CAISO reactive power requirements at the Point of Interconnection and maintain the Project's voltage or reactive power schedule per NERC standard VAR-002-3.

The selected Proposer shall be responsible for electrically connecting the Project's output to CDWR's transmission system, a nearby 230 kV line, including any necessary support structures and electrical protection equipment required. The interconnection design shall be consistent with the requirements in SCE's Interconnection Handbook and GIA to be executed by the parties and shall be submitted to CDWR and SCE for review and approval.

The Proposer shall submit the Project schedule, an array layout and electrical single line plan to CDWR. Solar panels shall be non-reflective.

Proposer shall be responsible for submitting the Project plans and specifications as necessary to the State and local Fire Marshall for approval.

Proposer shall submit to CDWR all designs, specifications, plans and drawings requiring any State or local jurisdiction approval.

Proposer shall possess and maintain in good standing a Class A – General Engineering Contractor License; and Proposer or Proposer’s subcontractors shall possess and maintain in good standing the following licenses:

- C-10 Electrical Contractor License
- C-46 Solar Contractor License

## **10.0 RFP SCHEDULE AND COMMUNICATION**

### **10.1 Deadline**

CDWR must receive proposals no later than 3:00 p.m.PPT on June 19, 2015. Proposals received after this deadline shall be returned unopened to the prospective Proposer. CDWR shall notify Proposer if this issue should occur.

### **10.2 Anticipated RFP Schedule**

<b>Event</b>	<b>Date</b>
Advertise RFP	May 11, 2015
Site Discovery Tour	May 20, 2015
Deadline to submit questions and clarifications	May 26, 2015 @ 5PM PPT
Response to RFP Questions	June 8, 2015 @ 5PM PPT
Proposals due	June 19, 2015 @ 3PM PPT
Proposal evaluation	June 22, 2015 to June 30, 2015
Notice of Award	July, 2015

### **10.3 Communication**

Questions regarding this RFP may be emailed to [RFPContracts@water.ca.gov](mailto:RFPContracts@water.ca.gov) with the subject heading: "RFP NO. 10404729 – Questions". CDWR shall post all questions and answers without attribution as well as all changes to the RFP on the Internet site [www.water.ca.gov/paro/RFPs.cfm](http://www.water.ca.gov/paro/RFPs.cfm). Proposers are responsible for checking this Internet site for all postings. Proposer may request to be notified of new postings through the following Internet site [www.water.ca.gov/paro/subscription.cfm](http://www.water.ca.gov/paro/subscription.cfm). CDWR shall neither be responsible for nor be bound by any oral instructions, interpretations, or explanations issued by CDWR or its representatives.

#### 10.4 Anticipated Project Milestone Schedule

Event	Date
Execute PPA & GLA	July 2015
Execute GIA	August 1, 2015
Proposer receives CEC Pre-Certification as ERR	TBD
Proposer completes Project financing	TBD
Proposer begins engineering and procurement of long lead time equipment	TBD
Construction Begins	TBD
Construction Complete	October, 2016
Project Start-up and Testing	October, 2016
COD	December, 2016

Failure to achieve a binding milestone in the PPA shall result in the selected Proposer owing daily delay damages to CDWR. Binding milestones shall include, but may not be limited to construction begin date, in-service date and COD, to be specified in the PPA.

#### 11.0 PROPOSAL SUBMISSION

##### 11.1 Required Documents and Registration

The Proposal Checklist (Attachment 2) lists documents required in the proposal submittal. Failure to include all documents shall result in a rejection of the proposal. The answer to each question shall be fully responsive to the question **without requiring reference to other documents or other portions of the proposal.** Please note that CDWR may **disqualify** a Proposal if it fails to meet the Product requirements stated in this RFP.

CDWR reserves the right to request any and all documents related to the Project to be provided upon request including, for example, design plans and calculations, analysis and reports, and all stamped drawings.

Department of Industrial Relations Registration of Contractors and Prevailing Wage Monitoring and Enforcement

- a) In addition to complying with other applicable laws, effective for all bids on public works received on or after March 1, 2015, each Proposer submitting a bid for such contract work must be a Department of Industrial Relations (DIR) Registered Contractor pursuant to Labor Code Section 1725.5 (“DIR registered contractor”). A Proposer that is not a DIR registered contractor when submitting a bid for the contract work is deemed “not qualified.” Pursuant to Labor Code Section 1725.5, all subcontractors identified in a Proposer’s Subcontractor List shall also be DIR registered contractors.
- b) Effective for contracts for public works awarded on or after April 1, 2015, all awarded prime contractors and all subcontractors of any tier, at all times during the performance of the work, and shall be DIR registered contractors. Also, all such contractors and subcontractors must furnish electronic certified payroll records directly to the Labor Commissioner (of the Division of Labor Standards Enforcement). The contracts are subject to compliance monitoring and enforcement by the Department of Industrial Relations.

**11.2 Cost**

CDWR shall not be liable for any costs or expenses incurred by Proposers in responding to this RFP. Proposal packages may be returned at the Proposer’s expense upon request.

**11.3 Submission Process**

Proposers must submit at least one electronic copy on flash drive, compact disk, or DVD and two (2) paper copies of the proposal documents specified in the Proposal Checklist.

All proposals must be submitted under sealed cover and be clearly marked as follows: **“Request for Proposal #10404729”** **“Do Not Open Until Proposal Submission Date: June 19, 2015”**.

Mail or deliver proposals to the following address:

State of California  
California Department of Water Resources  
Attention: Brian Ellis or Valerie Cox  
SWP Power and Risk Office  
2135 Butano Drive, Suite 100  
Sacramento, CA 95825

If CDWR believes that collusion exists among Proposers, CDWR shall reject this and future procurement proposals from such Proposers.

If the proposal is made under a fictitious name or business title, the actual legal name of Proposer must be provided.

#### **11.4 Due Diligence**

Before submitting a response to this solicitation, Proposers should thoroughly review and identify any and all errors or omissions for clarification and confirm compliance requirements with the RFP. Proposers should submit relevant inquiries regarding the RFP in a timely manner in accordance with this RFP and the RFP schedule. Interested Proposers shall be responsible for ascertaining relevant Licensed Area conditions and making their own finding of appropriate solar PV system installation conditions prior to submitting proposals. The Licensed Area is to be provided in "as is" condition and Proposers should not anticipate that CDWR shall make any accommodations or efforts to assist in establishing feasibility of installation of the solar PV system. Interested Proposers are advised that any and all costs associated with the design, installation, construction, operation, and maintenance of the solar PV system are the responsibility of the Proposer.

#### **11.5 Antitrust Claims**

If these services or goods are obtained by means of a competitive bid, the select Proposer 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 Proposer offers and agrees that if the bid is accepted, it shall 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 Proposer 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 Proposer (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).

#### **11.6 Post-Submission Modification and/or Withdrawal**

A Proposer may modify its proposal after submission by (i) withdrawing the original proposal by submitting a written withdrawal request to CDWR, signed by the Proposer and (ii) resubmitting a new proposal; provided, however, the Proposer does both (i) and (ii) prior to the proposal submission deadline. Submitted proposals may not be withdrawn subsequent to the proposal submission deadline.

#### **11.7 Confidential or Proprietary Proposer Information**

Responses to this RFP become the exclusive property of CDWR. The California Public Records Act limits CDWR's ability to maintain confidentiality of qualification and proposal data to trade secrets or records, the disclosure of which is exempt or prohibited pursuant to federal or state law. Except as provided below, all proposals received in response to this RFP are public records and subject to the California Public Records Act (Government Code Section 6250 et seq.).

Proposers may submit specifically identified items of their proposal with a label of Confidential if the portion so labeled contains information that would be exempt from

the California Public Records Act as a trade secret or other applicable exemption. CDWR shall take all reasonable and prudent measures to maintain the confidentiality of submitted documents but shall not in any way be liable or responsible for the disclosure of any such proposal or portions thereof. Proposers should avoid labeling the entire or a significant (50% or more) portion of the Proposal as Confidential. Any proposal which contains language purporting to render all or significant portions of the proposal "Confidential," "Trade Secret," or "Proprietary" shall be regarded as non-responsive.

Upon receipt of a California Public Records Act request for information labeled "Confidential," if feasible, CDWR shall provide the Proposer who submitted the information with reasonable notice to allow the Proposer to intervene or seek injunctive relief in a court of competent jurisdiction. Proposer agrees that under no circumstances shall CDWR be held responsible or have any liability to Proposer or any person or entity for any damages or losses incurred, of whatever nature, due to the disclosure of any information in a proposal.

## **12.0 PROPOSAL EVALUATION AND SELECTION**

### **12.1 Summary**

CDWR shall evaluate each proposal as described below and develop a GLA and a PPA with the Proposer that CDWR determines in its sole discretion represents the best value to CDWR. However, this RFP does not constitute a commitment by CDWR to execute either the GLA or PPA with any Proposer. CDWR expressly reserves the right to revise, suspend, or terminate this RFP at any time at its sole discretion without incurring any liability to any proposer.

### **12.2 Evaluation**

#### **12.2.1 Phase One – Review of Proposals for Completeness**

In Phase One, CDWR shall review that all documents specified in Attachment 2 have been submitted and are in compliance with the document requirements of this RFP.

**Missing documents or blank responses may be deemed non-responsive or incomplete and proposals may be disqualified.**

In addition, CDWR is required under Section 10295.4 of the California Public Contract Code to check the lists of the 500 largest tax delinquencies maintained by the State Board of Equalization and the Franchise Tax Board before entering into a contract for goods or services. Consequently, CDWR shall check and reject proposers whose names appear on such lists.

Board of Equalization – Top 500 Sales Tax and Delinquencies  
<http://www.boe.ca.gov/cgi-bin/deliq.cgi>

Franchise Tax Board – Top 500 Delinquent Tax Payers  
[https://www.ftb.ca.gov/aboutFTB/Delinquent\\_Taxpayers.shtml](https://www.ftb.ca.gov/aboutFTB/Delinquent_Taxpayers.shtml)

#### **12.2.2 Phase Two – Review of Minimum RFP Requirements**

In Phase Two, CDWR shall review proposal information from Attachment 9 and disqualify proposals that do not meet the RFP minimum technical and operational requirements.

**12.2.3 Phase Three – Evaluation of Qualifications and Experience  
(max. 600 pts)**

In Phase Three, proposal information from Attachment 10 shall be reviewed, evaluated, and scored based on the criteria in the table below. Proposer should provide all the information requested to achieve a maximum score.

<b>Scoring Criteria for Phase Three</b>	<b>Maximum Possible Points</b>
Product Development Experience	170
Experience Operating & Maintaining Installed Systems.	130
Experience Operating & Scheduling Installed Systems in the CAISO Market	170
Financial strength including financing experience, creditworthiness, Bonding Capacity, and insurance	130
<b>Total Points</b>	<b>600</b>

**12.2.4 Phase Four – Evaluation of Price Factors (maximum 400 points)**

In Phase Four, proposal information from Attachments 11 & 12 shall be reviewed, evaluated, and scored based on Contract Price and factors that reflect the Product’s value to CDWR, including net present value.

<b>Scoring Elements for Phase Four</b>
Contract Price and Energy Production Profile

CDWR shall forecast future energy cost and calculate the net present value of savings (NPV<sub>s</sub>) for each proposal based on (i) the Contract Price, (ii) annual Contract Quantity, and (iii) avoided energy cost savings.

The highest NPV<sub>s</sub> proposal shall be awarded the maximum points.

Other proposals shall be awarded points that are proportional to their NPV<sub>s</sub> compared to the highest NPV<sub>s</sub>.

For example, if the highest NPV<sub>s</sub> is (\$4,000,000), the proposal with this NPV<sub>s</sub> shall receive 400 points for Phase Four. If another proposal has a NPV<sub>s</sub> of (\$3,800,000) that proposal shall receive  $((\$3,800,000) \times 400) / (\$4,000,000) = 380$  points.

### **12.2.5 Phase Five – Final Score**

Phase Five score = Phase Three score + Phase Four score.

If applicable, State Preference/Participation Programs calculations shall be applied to Phase Five score as described in Attachment 7.

### **13.0 AWARD**

CDWR shall post the Notice(s) of Intent to Award in a public place at the first floor lobby of CDWR Power and Risk Office Headquarters located at 2135 Butano Drive, Sacramento, California 95825 for five (5) Business Days prior to awarding the PPA.

# Attachment 1 – Special Terms and Conditions

## EXHIBIT D – Special Terms and Conditions for Department of Water Resources (Over \$5,000 Standard Payable)

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.
2. **RESOLUTION OF DISPUTES:** In the event of a dispute, Contractor shall file a "Notice of Dispute" with the Director or the Director's Designee within ten (10) days of discovery of the problem. The State and Contractor shall then attempt to negotiate a resolution of such claim and, if appropriate, process an amendment to implement the terms of any such resolution. If the State and Contractor are unable to resolve the dispute, the decision of the Deputy Director of Business Operations shall be final, unless appealed to a court of competent jurisdiction.  
  
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. **PAYMENT RETENTION CLAUSE:** Ten percent of any progress payments that may be provided for under this contract shall be withheld per Public Contract Code Section 10346 pending satisfactory completion of all services under the contract.
4. **AGENCY LIABILITY:** The Contractor warrants by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bonafide employees or bonafide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.
5. **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 its 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 enforce the payment of any moneys to any subcontractor.
6. **SUBCONTRACTING:** The Contractor is responsible for any work it subcontracts. Subcontracts must include all applicable terms and conditions of this Agreement. Any subcontractors, outside associates, or consultants required by the Contractor in connection with the services covered by this Agreement shall be limited to such individuals or firms as were specifically identified in the bid or agreed to during negotiations for this Agreement, or as are specifically authorized by the Contract Manager during the performance of this Agreement. Any substitutions in, or additions to, such subcontractors, associates or consultants shall be subject to the prior written approval of the Contract Manager. Contractor warrants, represents and agrees that it and its subcontractors, employees and representatives shall at all times comply with all applicable laws, codes, rules and regulations in the performance of this Agreement. Should State determine that the work performed by a subcontractor is substantially unsatisfactory and is not in substantial accordance with the contract terms and conditions, or that the subcontractor is substantially delaying or disrupting the process of work, State may request substitution of the subcontractor.

7. RENEWAL OF CCC: Contractor shall renew the Contractor Certification Clauses or successor documents every three (3) years or as changes occur, whichever occurs sooner.
8. REPORT OF RECYCLED CONTENT CERTIFICATION: In accordance with Public Contract Code Sections 12200-12217, et seq. and 12153-12156, et seq. the contractor must complete and return the form DWR 9557, Recycled Content Certification, for each required product to the Department at the conclusion of services specified in this contract. Form DWR 9557 is attached to this Exhibit and made part of this contract by this reference.
9. TERMINATION CLAUSE: The State may terminate this contract without cause upon 30 days advance written notice. The Contractor shall be reimbursed for all reasonable expenses incurred up to the date of termination.
10. COMPUTER SOFTWARE: For contracts in which software usage is an essential element of performance under this Agreement, the Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this contract for the acquisition, operation or maintenance of computer software in violation of copyright laws.
11. PRIORITY HIRING CONSIDERATIONS: For contracts, other than consulting services contracts, 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. (Public Contract Code Section 10353).
12. EQUIPMENT RENTAL AGREEMENTS: This provision shall apply to equipment rental agreements. The State shall not be responsible for loss or damage to the rented equipment arising from causes beyond the control of the State. The State's responsibility for repairs and liability for damage or loss to such equipment is restricted to that made necessary or resulting from the negligent act or omission of the State or its officers, employees, or agents.
13. CONTRACTOR COOPERATION DURING INVESTIGATION: Contractor agrees to cooperate fully in any investigation conducted by or for DWR regarding unsatisfactory work or allegedly unlawful conduct by DWR employees or DWR contractors. The word "cooperate" includes but is not limited to, in a timely manner, making Contractor staff available for interview and Contractor records and documents available for review.
14. CONFLICT OF INTEREST:
  - a. Current and Former State Employees: Contractor should 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.
    - (1) Current State Employees: (PCC §10410)
      - (a) 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.
      - (b) 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.
    - (2) Former State Employees: (PCC §10411)
      - (a) 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.

## **Attachment 1 – Special Terms and Conditions – Cont.**

### Prevailing Wage Monitoring and Enforcement:

- a) DIR Registration of Contractor and subcontractors: To the extent it is performing “public works” under Labor Code Sections 1720 et seq., Contractor agrees that it shall remain registered with the Department of Industrial Relations (“DIR”) pursuant to Labor Code Section 1725.5 (“DIR registered contractor”) at all times during the performance of the work. Contractor shall independently verify that all subcontractors of every tier are DIR registered contractors at all times during the performance of the work.
- b) Certified Payroll Records: To the extent it is performing “public works” under Labor Code Sections 1720 et seq., Contractor shall comply with the Certified Payroll Record (CPR) requirements of Section 1771.4 and Section 1776 of the Labor Code and shall require and verify that all subcontractors of every tier comply with such CPR requirements.
- c) Posting of Job Site Notices: To the extent it is performing “public works” under Labor Code Sections 1720 et seq., pursuant to Labor Code Section 1771.4(a)(2), Contractor shall post any job site notices prescribed by DIR.
- d) DIR Enforcement: To the extent it is performing “public works” under Labor Code Sections 1720 et seq., this Contract is subject to prevailing wage compliance monitoring and enforcement by DIR.

Penalty assessment for non-compliance with CPR requests; withholding of payment: Pursuant to Labor Code Section 1776(h), if the requirements therein regarding production of CPRs within ten (10) days of written request have not been strictly complied with, the offending Contractor or subcontractor(s) shall forfeit the sum of One Hundred Dollars (\$100) per calendar day, or portion thereof, for each worker, until such offending party has fully complied with the requirements. Upon request of DIR, these penalties shall be withheld from progress payments then due to Contractor. Contractor is not subject to a penalty assessment for failure of a subcontractor to comply with the requirements of this paragraph.

Special Terms and Conditions numbers three (3) and nine (9) shall not apply.

## **Attachment 2 – Proposal Checklist**

### **Proposal Checklist**

Proposers are required to include all of the items below in the proposal package.

Documents or items considered by the Proposer as not applicable must be submitted and identified as such. Missing documents or blank responses may be deemed non-responsive or incomplete.

Attachment 3 – Proposal/Proposer Certification Sheet

Attachment 4 – Statement of Veracity and Authorization

Attachment 5 – Darfur Contracting Act Certification

Attachment 6 – Iran Contracting Act Certification

Attachment 7 – State Preference/Participation Programs

Attachment 8 – Contractor Certification Clauses

Attachment 9 – Proposal Minimum Qualifications Form

Attachment 10 – Proposal Detail Information Form

Attachment 11 – Proposal Bid Information Form

Attachment 12 – Proposal Contract Quantity Form (include Project's energy simulation report to support the Contract Quantity)

Attachment 16 – Non-Disclosure Agreement

Attachment 18 - Site Discovery Tour Attendee Information

**Attachment 3 – Proposal/Proposer Certification Sheet**

**Proposal/Proposer Certification Sheet**

This Proposal/Proposer Certification Sheet must be signed and returned along with all of the required attachments as an entire package in duplicate with original signatures.

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			3a. Email Address
Indicate your organization type:			
4. <input type="checkbox"/> Sole Proprietorship	5. <input type="checkbox"/> Partnership		6. <input type="checkbox"/> 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. PUC License CAL-T-	11. Required Certification
12. Proposer's Name (Print)		13. Title	
14. Signature		15. Date	
16. Are you certified with the Department of General Services, Office of Small Business Certification and Resources (OSDS) as:			
a. California Small Business Enterprise		b. Disabled Veteran Business Enterprise	
Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter certification number:		Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter your service code below:	
NOTE: A copy of your Certification is required to be included if either one of the above items is checked "Yes". Date application was submitted to OSDS, if an application is pending.			

## Completion Instructions for Proposal/Proposer Certification Sheet

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

Item Numbers	Instructions
<b>1, 2, 2a, 3, 3a</b>	Must be completed. These items are self-explanatory.
<b>4</b>	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.
<b>5</b>	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.
<b>6</b>	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.
<b>7</b>	Enter your federal employee tax identification number.
<b>8</b>	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.
<b>9</b>	Complete if your firm holds a California contractor's license. This information shall be used to verify possession of a contractor's license for public works agreements.
<b>10</b>	Complete if your firm holds a PUC license. This information shall be used to verify possession of a PUC license for public works agreements.
<b>11</b>	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.
<b>12, 13, 14, 15</b>	Must be completed. These items are self-explanatory.
<b>16</b>	If certified as a Small Business Enterprise, check the "Yes" box, and enter your certification number on the line. If certified as a Disabled Veterans Business Enterprise, check the "Yes" box and enter your certification number. 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 OSDS.

**Attachment 4 – Statement of Veracity and Authorization**

I certify under penalty of perjury that the information I have included in this Proposal Response is true and complete to the best of my knowledge. I further understand that any false, incomplete, or incorrect statements may result in my disqualification from the pool established as a result of the Request for Proposals # 10404729. I authorize the clients identified on this application to release any information they may have to the State of California concerning the submitted qualifications and experience.

I hereby certify that I am duly authorized to execute binding agreements, on behalf of Proposer, for projects of the nature ultimately contemplated by this RFP. I represent and warrant that there are no claims, disputes, actions, suits, proceedings or investigations pending or threatened against or affecting the Proposer or any subsidiary of the Proposer by any governmental agency or any person that would restrain or prevent Proposer or any subsidiary of the Proposer from fulfilling its obligations contemplated by this RFP and that might materially affect the Proposer’s ability or the ability of any subsidiary of the Proposer to fulfill its obligations contemplated by this RFP.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_  
(Print/type individual name)

\_\_\_\_\_  
(Print/type company name)

\_\_\_\_\_  
(Print/type title)

## Attachment 5 – DARFUR Contracting Act Certification

### **DARFUR CONTRACTING ACT CERTIFICATION**

Public Contract Code Sections 10475 -10481 applies to any company that currently or within the previous three years has had business activities or other operations outside of the United States. For such a company to bid on or submit a proposal for a State of California contract, the company must certify that it is either a) not a scrutinized company; or b) a scrutinized company that has been granted permission by the Department of General Services to submit a proposal.

If your company has not, within the previous three years, had any business activities or other operations outside of the United States, you do **not** need to complete this form.

#### **OPTION #1 - CERTIFICATION**

If your company, within the previous three years, has had business activities or other operations outside of the United States, in order to be eligible to submit a bid or proposal, please insert your company name and Federal ID Number and complete the certification below.

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that a) the prospective Proposer named below is **not** a scrutinized company per Public Contract Code 10476; and b) I am duly authorized to legally bind the prospective Proposer named below. This certification is made under the laws of the State of California.

<i>Company/Vendor 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 and State of</i>

#### **OPTION #2 – WRITTEN PERMISSION FROM DGS**

Pursuant to Public Contract Code section 10477(b), the Director of the Department of General Services may permit a scrutinized company, on a case-by-case basis, to bid on or submit a proposal for a contract with a state agency for goods or services, if it is in the best interests of the state. If you are a scrutinized company that has obtained written permission from the DGS to submit a bid or proposal, complete the information below.

We are a scrutinized company as defined in Public Contract Code section 10476, but we have received written permission from the Department of General Services to submit a bid or proposal pursuant to Public Contract Code section 10477(b). A copy of the written permission from DGS is included with our bid or proposal.

<i>Company/Vendor Name (Printed)</i>	<i>Federal ID Number</i>
<i>Initials of Submitter</i>	
<i>Printed Name and Title of Person Initialing</i>	

## Attachment 6 – IRAN Contracting Act Certification

### IRAN CONTRACTING ACT CERTIFICATION (Public Contract Code sections 2202-2208)

Prior to bidding on, submitting a proposal or executing a contract or renewal for a State of California contract for goods or services of \$1,000,000 or more, a vendor must either: a) certify it is **not** on the current list of persons engaged in investment activities in Iran created by the California Department of General Services (“DGS”) pursuant to Public Contract Code section 2203(b) and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that other person shall use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS; or b) demonstrate it has been exempted from the certification requirement for that solicitation or contract pursuant to Public Contract Code section 2203(c) or (d).

To comply with this requirement, please insert your vendor or financial institution name and Federal ID Number (if available) and complete **one** of the options below. Please note: California law establishes penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made; contract termination; and three-year ineligibility to bid on contracts. (Public Contract Code section 2205.)

#### OPTION #1 - CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the vendor/financial institution identified below, and the vendor/financial institution identified below is **not** on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person/vendor, for 45 days or more, if that other person/vendor shall use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS.

<i>Vendor Name/Financial Institution (Printed)</i>	<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in</i>

#### OPTION #2 – EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services.

If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below, and attach documentation demonstrating the exemption approval.

<i>Vendor Name/Financial Institution (Printed)</i>	<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	<i>Date Executed</i>

## Attachment 7 – State Preference/Participation Programs

### STATE PREFERENCE/PARTICIPATION PROGRAMS

#### **Economic Incentive Programs**

Proposing firms may be eligible for additional preferences when their place of business is located within certain economic regions and when they hire persons living and working within those economic regions. Please access the following links to read information about these economic incentive programs.

#### **TACPA CONTRACT PREFERENCE**

This solicitation contains Target Area Contract Preference Act (TACPA) preference request forms. Please carefully review the forms and requirements. Proposers are not required to apply for these preferences. Denial of the TACPA preference request is not a basis for rejection of the bid.

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 Proposers, manufacturers, subcontractors and any other sources available at the time of the bid evaluation. Proposer 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 preference requested.

Contracts awarded with applied preferences shall be monitored throughout the life of the contract for compliance with statutory, regulatory, and contractual requirements. The State shall take appropriate corrective action and apply sanctions as necessary to enforce preference programs.

- TACPA Preference Request (STD 830):  
<http://www.documents.dgs.ca.gov/osp/pdf/std830.pdf>
- Proposer's Summary of Contract Activities and Labor Hours:  
<http://www.documents.dgs.ca.gov/pd/edip/bidsum526.pdf>
- Manufacturer's Summary of Contract Activities and Labor Hours:  
<http://www.documents.dgs.ca.gov/pd/dispute/mfgsum525.pdf>

Any questions regarding the TACPA preference should be directed to the Department of General Services, Procurement Division, TACPA Program at (916) 375-4609.

#### **Small Business Program**

1. The Small Business Procurement and Contract Act (Gov. Code Section 14835 et. seq.) requires that a fair share of the State's purchases and contracts for goods, information technology services and construction be placed with a certified small business or micro-business. The Act mandates that state agencies:
  - a. Establish participation goals,
  - b. Provide a 5% small business calculation preference, and

- c. Provide the opportunity for proposing firms to receive a 5% non-small business calculation preference when achieving 25% small business participation through subcontracted efforts.

## 2. SMALL BUSINESS PREFERENCE

The Small Business preference provides certified small businesses and micro-businesses a calculation preference in the amount of five percent (5%) of the highest scored responsible and responsive proposal submitted by a proposing firm who is not a certified small business. The small business preference is used as a calculation for determining the highest score and does not affect the actual price proposed.

The awarding department grants a certified small business a five percent (5%) Small Business preference on a proposal evaluation when a responsible non-small business has submitted the highest scored, responsive proposal pursuant to the evaluation solicitation method identified in a the proposal and the certified small business:

- a. Includes in its bid a notification to the awarding department that it is a small business or that it has submitted to the DGS OSDS a complete application no later than 5:00 p.m. on the bid due date, and is subsequently certified by the Department of General Services as a small business; and
- b. Submits a timely, responsive bid; and
- c. Has been determined to be a responsible Proposer.

Firms having pending Small Business or DVBE Certification applications under review by the Department of General Services concurrent with the proposal time frame should contact DGS/OSDS to request an expedite review/approval of their application in order to be considered for the small business preference during the evaluation of this proposal. Contact DGS/OSDS at (916) 375-4940 to obtain information about the application expedite process.

Firms must notify the Department in writing at the time of the proposal submission that they have an application for Small Business or DVBE certification under review at the DGS Office of Small and Disabled Veteran Business Certification, and that they wish to be considered for the Small Business Preference Calculation.

## 3. NON-SMALL BUSINESS PREFERENCE

The non-small business preference calculation may be applied when:

- a. A responsible non-small business has agreed to subcontract a minimum of 25% of the net price proposed with a certified Small Business,
- b. The non-small business firm is not the highest scored firm, and
- c. The firm has submitted a responsive proposal.

Non-small business firms shall be granted a five percent (5%) non-small business preference on a proposal evaluation by the awarding department if a responsible non-small business has been ranked as the highest scored proposal pursuant to the evaluation of the solicitation under the following conditions:

- a. The firm has included in its bid a notification to the awarding department that it commits to subcontract at least twenty-five percent (25%) of its net bid price with one or more OSDS certified small business(s) and
- b. The firm has submitted a timely, responsive bid; and
- c. The firm is determined to be a responsible Proposer; and
- d. The firm Identifies OSDS certified small business(s) it commits to subcontract with. The Proposer shall list certified SB subcontractors and include their name, address, phone number, a description of the work to be performed, and the percentage (as specified in the solicitation) per subcontractor.

4. NON-SMALL BUSINESS PREFERENCE CALCULATION

The Non-small business calculation preference five percent (5%) is used for bid evaluation purposes when there is at least one competing non-small business subcontracting at least twenty-five percent of its net price proposed to one or more certified small businesses, and award of the contract is made on the basis of the highest scored responsive, responsible Proposer. The preference shall be computed as follows:

Firm A - High Score:	950 Points – Not a certified small business firm
Firm B - Non-SB Proposal:	910 Points – Prime firm includes 25% to Certified SB subcontractor participation
Preference Calculation:	$950 \times .05 (5\%) = 47.50$
Firm B Non-SB Proposer Bid:	910.00
Calculated preference	<u>+47.50</u>
	957.50 points

Award is made to Firm B as the highest scored firm with 957.50 points.

5. TIES BETWEEN CERTIFIED SMALL BUSINESSES AND DVBE BUSINESSES

In the event of a precise tie between the proposal score of a small business and the proposal score of a disabled veteran enterprise, the award shall go to the disabled veteran that is also a small business.

6. MAXIMUM ALLOWABLE PREFERENCES

In no event shall the amount of the small business or non-small business subcontractor preferences awarded on a single proposal exceed \$50,000, and in no event shall the combined cost of the small business or non-small business subcontractor preference and preferences awarded pursuant to any other provision of law exceed \$100,000. The five percent (5%) calculation preference is used for computation purposes only and does not alter or affect the actual proposal price or the amount of the executed contract. When a certified small business is responsive, responsible, and the highest scored firm, there is no need to compute the small business preference as the small business is already the highest scoring firm.

7. COMMERCIALY USEFUL FUNCTION (*Government Code 14837*)

A certified small business, micro-business contractor, subcontractor or supplier, must meet commercially useful function requirements under Government Code section 14837(d) (4). Selected firms must perform a “*commercially useful function*” relevant to this contract.

The term “small business contractor, subcontractor or supplier” means any person or entity that satisfies the ownership (or management) and control requirements in accordance with Government Code Section 14847 (d) (4) and provides services or goods that contribute to the fulfillment of the contract requirements by performing a commercially useful function. A person or an entity is deemed to perform a “commercially useful function” if that person or entity does **all** of the following:

1. Is responsible for the execution of a distinct element of the work of the contract.
2. Carries out contractual obligations by actually performing, managing, or supervising the work involved.
3. Performs work that is normal for its business services and functions.
4. Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.
5. Is responsible, with respect to products, inventories, materials, and supplies required for the contract, for negotiating price, determining quality and quantity, ordering, installing, and, if applicable, making payment
6. Its role is not an extra participant in the transaction, contract or project through which funds are passed in order to obtain the appearance of DVBE participation.

#### 8. SMALL BUSINESS - DVBE PROPOSING FIRM CUF REQUIREMENTS

The Department shall determine, to the best of its ability, that your firm meets the criteria above for “commercially useful function”. In responding to this solicitation, you are confirming that, under Government Code 14837 Section 1, (d) (4) above, your business provides goods and/or services meet the definition of “commercially useful function”. In responding to this solicitation, you are confirming that, under CCR 1896.1 above, your business provides goods and/or services meet the definition of “commercially useful function”. All proposing firms are required to provide CUF documentation using the attached State’s Proposing firm Declaration Form GSPD-05-105, included in this attachment. When completing the declaration, proposing firms must identify all subcontractors proposed for participation in the contract. Any proposing firm awarded a contract is contractually obligated to use the subcontractor for the corresponding work defined unless the State agrees to a substitution.

#### 9. PENDING SMALL BUSINESS CERTIFICATION

If your firm is seeking small business certification in order to be considered for small business preference related to this solicitation, you must have: 1) notified DGS, Office of Small Business and DVBE Services (OSDS) that you are responding to a solicitation and are seeking an Expedite Review of your small business certification application in response to the solicitation, 2) provided DGS OSDS with the proposal Key Action Dates page from the RFP itself and 3) must have submitted a complete application with all required forms and documentation to OSDS for review and approval by close of business on the Proposal Submittal due date.

## Small Business DVBE Program Assistance

If you need assistance regarding small business or Disabled Veteran Business Enterprise (DVBE) program information, contact the CDWR SB/DVBE Advocate at:

State of California  
California Department of Water Resources  
Small Business/DVBE Program  
1416 Ninth Street, Room 345-1  
Sacramento, CA 95814  
Attn: Richard Zmuda  
Email: [rzmuda@water.ca.gov](mailto:rzmuda@water.ca.gov)  
Phone: (916) 653-9813  
FAX: (916) 654-6511

For additional information regarding small business or DVBE certification contact DGS, Office of Small and Disabled Veteran Business Services (OSDS), at: (916) 375-4940, Email: [OSDSHelp@dgs.ca.gov](mailto:OSDSHelp@dgs.ca.gov) or via the Internet at

<http://www.dgs.ca.gov/pd/Programs/OSDS.aspx>

## Disabled Veteran Business Enterprise Program

The Department of Water Resources has waived DVBE program requirements for this solicitation. Under California Code of Regulations 1896.99.100, the California DVBE Incentive provides responsive/responsible firms the opportunity to receive additional incentive calculations. The incentive is applied at the time of solicitation cost evaluation when a proposing firm has identified a California-certified DVBE subcontractor to provide services or commodities in support of the overall contract effort. Application of the DVBE Incentive *may displace a certified small business proposal*.

Please refer to DWR Form 9666, included in this attachment for instructions about regarding the DVBE Incentive.

### 1. DWR ADVOCATE PRE-REVIEW OF DVBE DOCUMENTATION

The Department's DVBE Advocate offers a pre-review of a proposing firm's DVBE documentation prior to proposal submission. Since non-compliance with the DVBE program is immediate cause for rejection, DWR strongly recommends firms take advantage of this opportunity to ensure they are fully compliant with DVBE Program requirements.

Upon satisfactory review of the firm's DVBE documentation, the DWR advocate issues a Notification of Compliance. To request a pre-review of your DVBE documentation, please fax the documentation to the attention of:

Richard Zmuda, DVBE Advocate  
Voice: (916) 653-9813

## 2. DVBE INCENTIVE PROGRAM FOR RFP SECONDARY

Under California Code of Regulations 1896.99.100, the California DVBE Incentive provides responsive and responsible firms the opportunity to receive additional incentive calculations. The incentive is applied at the time of solicitation evaluation when a proposing firm selects a California-certified DVBE subcontractor to provide services or commodities in support of the overall contract effort. Application of the DVBE Incentive may place the proposing firm in line for contract award.

The following are key elements of the DVBE Incentive Program:

- a. The DVBE Incentive is applied during the evaluation process and is only applied to responsive proposals from responsible firms proposing the percentage(s) of DVBE participation for the incentive(s) specified in the solicitation.
- b. DVBE Incentive participation is optional and at the discretion of the proposing firm.
- c. When requesting the Incentive application, bidding firms must complete and return the DWR 9666 California DVBE Incentive included within this solicitation with their proposal at time of submission.
- d. The Incentive is calculated by multiplying the solicitation's total points possible by the level of DVBE participation (%) identified by the responding firm. This amount is then added to the firm's total points to determine if they have the high score. Computation is for evaluation purposes only and cannot be used to achieve any applicable minimum point requirements. (CCR 1896.99.100 (d))
- e. Services or commodities provided by the DVBE firm MUST meet the definition of a "Commercially Useful Function" as defined under Government Codes: 14837; 14838.6; 14839; 14842; 14842.5 and Military and Veterans Code 999 and 999.6. A DVBE firm not meeting CUF regulations shall render the responding firm ineligible for the DVBE Incentive application.

## 3. DVBE INCENTIVE OPTION VS. DVBE PROGRAM REQUIREMENTS

- a. A Department may formally exempt a solicitation from California DVBE Program requirements, but still be required to include the DVBE Incentive when that Department has not met DVBE program goals three of the previous two fiscal years. Proposing firms should review the RFP closely to determine if the California DVBE Program requirement is included in the solicitation language.

- b. California DVBE Program requirements, when included in a solicitation, are not optional and must be met by the proposing firm.

4. DVBE INCENTIVE APPLICATION BASED ON RFP SECONDARY HIGH SCORE METHOD

Because this solicitation is being conducted as a Request for Proposal (RFP), the DVBE Incentive application shall be based on the High Score method and follows the guidelines identified below:

- a. Application of the Incentive is based on the High Score Method. The Incentives shall not exceed 5 percent, nor be less than 1 percent of the total possible available points, not including points for socioeconomic incentives or preferences. (CCR 1896.99.120 (b))
- b. Incentive points are included in the sum of non-cost points.
- c. Incentive points cannot be used to achieve any applicable minimum point requirements
- d. Incentive points may be a “desirable” administrative requirement that awards points based on amounts of participation.

**Small Business and Disabled Veteran Business Enterprise Evaluation**

In Phase five, Small Business Preferences and DVBE Incentive calculations shall be completed as necessary prior to contract award. The application of the Small Business Preference and DVBE Incentives may result in the displacement of a previously high scoring firm.

- 1. Proposing firms that are Small Business certified by DGS, Office of Small Business and DVBE Services (OSDS) may receive a five (5) percent preference calculation. The Small Business (SB) preference shall be calculated by factoring five (5) percent of the highest scored points and adding those points to that of the certified Small Business.

Example:	High Score:	950.00 points
	Small Business Score:	910.00 points
	$950 \times 0.05$ SB preference =	47.50 points
	Small Business Score:	910.00 points
	SB Points:	<u>47.50 points</u>
		957.50 points

In the example above, the SB would achieve a high point score and be in line for contract award.

- 2. The DVBE Program Incentive is applied during Phase five and may result in the increase of a firm’s total points, placing them in line for award. Application of the DVBE Incentive is based on the number of total possible points specified.

The following example is based on 1000 total possible points:

Confirmed DVBE Participation	Possible Points Calculation
1% - 1.99% inclusive	1% x 1000 = 10 Points
2% - 2.99% inclusive	2% x 1000 = 20 Points
3% - 3.99% inclusive	3% x 1000 = 30 Points
4% - 4.99% inclusive	4% x 1000 = 40 Points
5% and Over	5% x 1000 = 50 Points

- a) Once all proposals are evaluated for the factors indicated under the Rating/Scoring Criteria above, the DVBE Incentive shall be calculated and those points shall be factored into the total points of those firms with lower scores that have identified DVBE participation levels as outlined in the above table. The points applied may result in a firm achieving high points placing them in line for the solicitation award.
- b) A Small Business firm may be displaced by another firm achieving higher points as a result of the DVBE Incentive application.
- c) An Evaluation Committee shall conduct the scoring and review the results submitted.
- d) Only firms that are certified as small business by the Department of General Services, Office of Small Business Certification and Resources, receive a 5 percent preference. The preference is applied by the Department before the contract is awarded.

### 3. DVBE Incentive Application – Allowable Incentive Amounts

- a) When the DVBE program is a required component of the solicitation, the minimum acceptable commitment level is three (3) percent. Incentive amounts applied begin at three percent and shall not exceed five (5) percent.
- b) When the Department waives DVBE program compliance from a solicitation, a responding firm's DVBE participation is optional. Firms proposing DVBE participation are eligible to receive a DVBE incentive calculation from one (1) to five (5) percent. The incentive applied shall be at the level of proposed DVBE commitment.

Example scale using high score method:

Available points example using sliding scale:

Technical proposal:	600 points
Cost proposal:	400 points
Total:	1000 points

Confirmed DVBE Participation	Possible Points Calculation:
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1% - 1.99% inclusive	1% X 1000 = 10 Points
2% - 2.99% inclusive	2% X 1000 = 20 Points
3% - 3.99% inclusive	3% X 1000 = 30 Points
4% - 4.99% inclusive	4% X 1000 = 40 Points
5% and Higher	5% X 1000 = 50 Points

In the example above, there are 50 maximum DVBE Incentive points possible.

Example results using high score method:

Proposing Firm	A	B	C
Responsive/Responsible	Yes	Yes	Yes
Total Points	850.00	955.00	925.00
Eligible Preference	SB	None	SB
SB Preference points achieved	47.75	0	47.75
<b>Points Subtotal</b>	<b>897.75</b>	<b>955.00</b>	<b>972.75</b>
Rank	3	2	1
DVBE Participation	No (0%)	Yes (5%)	Yes (2%)
Incentive Points Applied	None	50	20
<b>Adjusted Points</b>	<b>897.75</b>	<b>1005.00</b>	<b>992.75</b>
New Rank	3	1	2

4. Order of Evaluation

- a) Small Business Preference is calculated by multiplying the highest total points achieved by 5% and adding the resulting calculation to the total points of the Small Business firm. In this sample the calculation was based on 955 points x .05 resulting in 47.75 additional points added to the certified Small Businesses (A and C).
- b) DVBE Incentive Points are factored by multiplying the DVBE participation (%) identified by the total possible points that could be awarded (1000). This amount is then added to the firm's total points. In the sample above, Firm B had 50 additional points added (.05% x 1000

total points available) to their total points placing them first for award. Firm C received 20 Incentive points, but this was not enough to place them first for award.

- c) Under the High Score Method, it is possible to displace a high point Certified Small Business with the Application of the DVBE Incentive.

## Non-Small Business Preference Request Form

In accordance with The Small Business Procurement and Contract Act (Gov. Code Section 14835 et. seq.), you have selected, and mutually agreed, to partner with a certified Small Business sub-contractor to provide commodities or services related to the performance of the requested services identified in this IFB Solicitation. With the submission of the Non-Small Business Preference Request Form, you are requesting the non-small business calculation be applied to your bid during bid evaluation when applicable. The NSB calculation is for evaluation purposes only. Awards made as a result of the NSB calculation shall be at the Proposer's original bid prices.

The Department of Water Resources has identified a Small Business participation level of 25% for this contract effort. As the Prime Contractor, you agree to sub-contract 25% as indicated in Section A below. The calculation preference given shall not exceed 5%, with a maximum preference of \$50,000.

*This form must be signed by individual entities with legally binding authority to do so.*

### SECTION I

#### PART A - NON-SMALL BUSINESS INFORMATION

##### Proposer Instructions

- ✓ Complete Section I, Part A, Certified Non-Small Business Proposer Information
- ✓ Identify the response deadline date in Section II
- ✓ Fax or Mail this form to the Certified Small Business to have Section II completed and returned
- ✓ You must include the completed Non-Small Business Certification Information Sheet and a copy of the Small Business's DGS OSDS Certification Letter with your bid submittal.

<b>Company Name:</b>		<b>FEIN#</b>	
<b>Street Address:</b>			
<b>City</b>	<b>State</b>	<b>Zip Code</b>	
<b>Telephone Number:</b>		<b>Fax #:</b>	

#### PART B – Services/Commodities to Be Provided by the Small Business Partner:

**PART C** - As the Non-Small Proposer I agree to subcontract twenty-five percent (25%) to the Certified Small Business Contractor identified in Section II.

\_\_\_\_\_ Authorized Non Small Business Name (Printed) \_\_\_\_\_ Authorized Non Small Business Signature

### SECTION II –CERTIFIED SMALL BUSINESS INFORMATION

**PART A** - Certified Small Business Contractor; please complete the information below and return this form to the Non-Small Proposer by: \_\_\_\_/\_\_\_\_/\_\_\_\_. You **must** include a copy of your DGS OSDS certification with your response.

<b>Company Name:</b>		<b>FEIN#</b>	
<b>Street Address:</b>			
<b>City</b>	<b>State</b>	<b>Zip Code</b>	
<b>Telephone Number:</b>		<b>Fax #:</b>	
<b>OSDS Certification No.:</b>	<b>Certification Expiration Date:</b>	____/____/____	

**PART B** - I understand the above Non-Small Proposer is responding to the Department of Water Resources Solicitation No. \_\_\_\_\_. I agree to provide subcontractor services to the Non-Small Proposer as identified in **Section A**.

\_\_\_\_\_  
Authorized Certified SB Name (Printed)

\_\_\_\_\_  
Authorized Certified SB Contractor Signature

## **NON-SMALL BUSINESS PREFERENCE REQUEST INSTRUCTIONS**

The Department of Water Resources encourages Non-Small Business firms to take advantage of the opportunity offered for a preference calculation by partnering with a California Certified Small Business. In doing so, the resulting preference calculation applied may result in the award of the proposal when all other technical specifications and proposal requirements are met. Application of the NSB preference cannot be used to displace an already certified small business.

If you elect to partner with a small business, the Non-Small Business Preference Request Form must be completed in its entirety and included with your proposal submission.

### **RESOURCES**

1. Determine the type of service or services to be subcontracted.
2. If you do not already know of a contractor, or contractors, contact the DGS Office of Small Business and DVBE Services (OSDS) website to conduct a search of certified firms. A listing of the State's certified small business firms may be found at:  
<http://www.pd.dgs.ca.gov/smbus/default.htm>
3. Select and contact the certified Small Business firm, or firms you've identified to discuss partnering opportunities.
4. Contact the DWR Small Business program manager if you need assistance locating certified small businesses if you need assistance. The manager can be reached at (916) 653-9813.

### **COMPLETING THE FORM**

When an agreement to partner is reached, the Non-Small Business Preference Request Form must be completed and signed by both parties.

1. Section I, Part A - Complete the Non-Small Proposing firm (your firm) business information.
2. Section I, Part B – Identify the services to be performed by the certified small business.
3. Section I, Part C – Identify the small business participation commitment level. You *must* include the participation percentage information. If no or less than 25 percent commitment level is indicated, the preference calculation shall *not* be applied when DWR evaluates the proposals.
4. \* *Print and sign* Section I, Part C (must be signed by individual authorized to do so) *before* sending it to the small business firm for their information.
5. Section II, Part A – Identify the Small Business response needed date.
6. Fax the form to the Small Business contractor to be completed and signed. Include instructions for SB firm to provide their small business certification. Certification must be current at the time of proposal due date.
7. Review the form for completeness. Be sure it includes all the required information.
8. Include the Non-Small Business Preference Calculation Request Form and the DGS Small Business Certification letter with your proposal response to DWR.

\* *This assures that both the Non-Small business firm and the Small Business shall have a signed copy of the form.*

## PROPOSER DECLARATION

**1. Prime Proposer information (Review attached Proposer Declaration Instructions prior to completion of this form):**

- a. Identify current California certification(s) (MB, SB, NVSA, DVBE):** \_\_\_\_\_ **or None** \_\_\_\_ (If “None”, go to Item #2)
- b. Shall subcontractors be used for this contract? Yes** \_\_\_\_ **No** \_\_\_\_ (If yes, indicate the distinct element of work your firm shall perform in this contract e.g., list the proposed products produced by your firm, state if your firm owns the transportation vehicles that shall deliver the products to the State, identify which solicited services your firm shall perform, etc.). Use additional sheets, as necessary.

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- c. If you are a California certified DVBE:**
- (1) Are you a broker or agent? **Yes** \_\_\_\_ **No** \_\_\_\_
- (2) If the contract includes equipment rental, does your company own at least 51% of the equipment provided in this contract (quantity and value)? **Yes** \_\_\_\_ **No** \_\_\_\_ **N/A** \_\_\_\_

**2. If no subcontractors shall be used, skip to certification below. Otherwise, list all subcontractors for this contract. (Attach additional pages if necessary):**

Subcontractor Name, Contact Person, Phone Number & Fax Number	Subcontractor Address & Email Address	CA Certification (MB, SB, NVSA, DVBE or None)	Work performed or goods provided for this contract	Corresponding % of bid price	Good Standing?	51% Rental?

**CERTIFICATION: By signing the bid response, I certify under penalty of perjury that the information provided is true and correct.**

## PROPOSER DECLARATION Instructions

### All prime Proposers (the firm submitting the bid) must complete the Proposer Declaration.

**1.a.** Identify all current certifications issued by the State of California. If the prime Proposer has no California certification(s), check the line labeled “None” and proceed to Item #2. If the prime Proposer possesses one or more of the following certifications, enter the applicable certification(s) on the line:

- Micro Business (MB)
- Small Business (SB)
- Nonprofit Veteran Service Agency (NVSA)
- Disabled Veteran Business Enterprise (DVBE)

**1.b.** Mark either “Yes” or “No” to identify whether subcontractors shall be used for the contract. If the response is “No”, proceed to Item #1.c. If “Yes”, enter on the line the distinct element of work contained in the contract to be performed or the goods to be provided by the prime Proposer. Do not include goods or services to be provided by subcontractors.

Proposers certified as MB, SB, NVSA, and/or DVBE must provide a commercially useful function as defined in Military and Veterans Code Section 999 for DVBEs and Government Code Section 14837(d)(4)(A) for small/ micro businesses.

Bids must propose that certified Proposers provide a commercially useful function for the resulting contract or the bid shall be deemed non-responsive and rejected by the State. For questions regarding the solicitation, contact the procurement official identified in the solicitation.

**Note: A subcontractor is any person, firm, corporation, or organization contracting to perform part of the prime’s contract.**

**1.c.** This item is only to be completed by businesses certified by California as a DVBE.

(1) Declare whether the prime Proposer is a broker or agent by marking either “Yes” or “No”. The Military and Veterans Code Section 999.2 (b) defines “broker” or “agent” as a certified DVBE contractor or sub-contractor 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 of the disabled veteran owners has at least 51-percent ownership of the quantity and value of the materials, supplies, services, and of each piece of equipment provided under the contract.

(2) If bidding rental equipment, mark either “Yes” or “No” to identify if the prime Proposer owns at least 51% of the equipment provided (quantity and value). If **not** bidding rental equipment, mark “N/A” for “not applicable.”

**2.** If no subcontractors are proposed, do not complete the table. Read the certification at the bottom of the form and complete “Page \_\_\_\_ of \_\_\_\_” on the form.

If subcontractors shall be used, complete the table listing all subcontractors. If necessary, attach additional pages and complete the “Page \_\_\_\_ of \_\_\_\_” accordingly.

### 2. (continued) Column Labels

**Subcontractor Name, Contact Person, Phone Number & Fax Number**—List each element for all subcontractors.

**Subcontractor Address & Email Address**—Enter the address and if available, an Email address.

**CA Certification (MB, SB, NVSA, DVBE or None)**—If the subcontractor possesses a current State of California certification(s), verify on this website (<http://www.pd.dgs.ca.gov/>).

**Work performed or goods provided for this contract**—Identify the distinct element of work contained in the contract to be performed or the goods to be provided by each subcontractor. Certified subcontractors must provide a commercially useful function for the contract. (See paragraph 1.b above for code citations regarding the definition of commercially useful function.) If a certified subcontractor is further subcontracting a greater portion of the work or goods provided for the resulting contract than would be expected by normal industry practices, attach a separate sheet of paper explaining the situation.

**Corresponding % of bid price**—Enter the corresponding percentage of the total bid price for the goods and/or services to be provided by each subcontractor. Do not enter a dollar amount.

**Good Standing?**—Provide a response for each subcontractor listed. Enter either “Yes” or “No” to indicate that the

- Possesses valid license(s) for any license(s) or permits required by the solicitation or by law
- If a corporation, the company is qualified to do business in California and designated by the State of California Secretary of State to be in good standing
- Possesses valid State of California certification(s) if claiming MB, SB, NVSA, and/or DVBE status

**51% Rental?**—This pertains to the applicability of rental equipment. Based on the following parameters, enter either “N/A” (not applicable), “Yes” or “No” for each subcontractor listed.

Enter “N/A” if the:

- Subcontractor is NOT a DVBE (regardless of whether or not rental equipment is provided by the subcontractor) or
- Subcontractor is NOT providing rental equipment (regardless of whether or not subcontractor is a DVBE)

Enter “Yes” if the subcontractor is a California certified DVBE providing rental equipment and the subcontractor owns at least 51% of the rental equipment (quantity and value) it shall be providing for the contract.

Enter “No” if the subcontractor is a California certified DVBE providing rental equipment but the subcontractor does NOT own at least 51% of the rental equipment (quantity and value) it shall be providing.

Read the certification at the bottom of the page and complete the “Page \_\_\_\_ of \_\_\_\_” accordingly.

**CALIFORNIA DVBE PROGRAM INCENTIVE INSTRUCTIONS  
DWR 9666  
(FOR NON-IT SERVICES)**

**PROPOSERS ARE ADVISED TO CAREFULLY READ THE FOLLOWING INFORMATION AND INSTRUCTIONS**

**AUTHORITY:** The Disabled Veteran Business Enterprise Goal Program is established in Public Contract Code (PCC) Section 10115 et seq., Military and Veterans Code (MVC) 999 et seq. and California Code of Regulations (CCR) Title 2, Section 1896.6 et seq. State agencies and departments must include the opportunity for DVBE Incentive when failing to meet overall DVBE participation goals in two consecutive years. Those agencies and departments attaining DVBE overall participation goals at least two of three consecutive years may elect to exempt, or waive, the DVBE Incentive feature in their solicitations. In an effort to continuously promote and offer DVBE opportunity, DWR includes the incentive in all Department IFB and RFP solicitations whether exempt or not.

For the purpose of clarity, the term "Proposer" is used herein as a reference to either a firm bidding on a DWR Invitation to Bid (IFB) or a firm responding to a DWR Request for Proposal (RFP).

**INTRODUCTION**

The Department of Water Resources has waived this solicitation from DVBE program requirements. As a condition of bid submission, Proposers are not required to meet DVBE program requirements and are relieved from these requirements. The DVBE Incentive provides the opportunity for a responsive, responsible Proposer to receive an incentive calculation between one (1) and five (5) percent when the Proposer includes a DVBE subcontractor in their bid response. The Incentive is applied at the time of bid evaluation and may place the Proposer in line for contract award. Resulting awards are made at the Proposer's original bid or proposal price.

**DVBE Incentive Application:**

- The Incentive is applied during the evaluation process and is *only* applied to responsive bids from responsible Proposers proposing the percentage(s) of DVBE participation for the incentive(s) specified in the solicitation.
- For the purposes of this solicitation, DVBE Incentive participation is *optional* and at the discretion of the Proposer.
- When requesting the Incentive, Proposer must complete the attached DWR 9666 Documentation of DVBE Program Requirements and Proposer Certification of DVBE Participation. These forms must be included with the bid submittal.
- The DVBE Incentive is applied by factoring the Proposer's stated level of DVBE commitment by the lowest Proposer's bid amount and subtracting the amount from the Proposer's total. Computation is for evaluation purposes only and does not alter the final bid price. (CCR 1896.100 (b))
- Application of the Incentive cannot displace the low bid of a certified-small business with that of a non-small business. Services or commodities provided by the DVBE firm *must* meet the definition of a "Commercially Useful Function" (CUF) as defined under Government Codes: 14837; 14838.6; 14839; 14842; 14842.5 and Military and Veterans Code 999 and 999.6. Failure of the DVBE subcontractor to meet CUF requirements shall render the bidding firm ineligible for the DVBE Incentive application.

**DVBE INCENTIVE**

In accordance with Section 999.5(a) of Military and Veterans Code an incentive shall be given to Proposers who include DVBE participation in their bid response. For evaluation purposes only, the State shall apply an incentive to bids that propose California-certified DVBE participation identified on DWR Form 9666, page 39, California DVBE Program Requirements and page 7, Proposer Certification DVBE Participation, and is subsequently confirmed by the State.

The incentive amount applied is equal to the commitment level identified by the Proposer in the DWR 9666 Proposer Certification of DVBE Participation page 40. The applied incentive shall not be less than 1 percent and shall not exceed 5 percent. Those firms identifying less than one percent shall not be considered for the incentive application. Firms proposing more than 5 percent shall have the incentive capped at 5 percent. The incentive amount for awards based on low price shall vary in conjunction with the proposed DVBE participation. Unless a table that replaces the following has been expressly established elsewhere within the solicitation, the following percentages shall apply for awards based on low price:

**Confirmed DVBE Participation:**

DVBE Participation Level	Incentive Applied
Less than 1.0	0%
1.0 up to 1.99%	1%
2.0 up to 2.99%	2%
3.0 up to 3.99%	3%
4.0 up to 4.99%	4%
5% or Higher	5%

As applicable:

- Awards based on low price: the net bid price of responsive bids shall be reduced (for evaluation purposes only) by the amount of the DVBE incentive as applied to the lowest responsive net bid. If the #1 ranked responsive, responsible bid is from a California certified Small Business, the only Proposers eligible for the incentive shall be California certified Small Businesses. The incentive adjustment for awards based on low price cannot exceed 5 percent or \$100,000, whichever is less, of the #1 ranked net bid. When used in combination with a preference adjustment (SB/TACPA/EZA/LAMBRA), the cumulative adjustment amount is not to exceed \$100,000.
- Awards based on highest score: the solicitation shall include an individual requirement that identifies incentive points for DVBE participation.

**PROGRAM DEFINITIONS**

**COMMERCIALLY USEFUL FUNCTION (California Code of Regulations, Title 2, Section 1896.71 (I))**

DVBE firms must perform a “commercially useful function” relevant to this contract. The term “DVBE contractor, subcontractor or supplier” means any person or entity that satisfies the ownership (or management) and control requirements of CCR 1896.61 (f); is certified in accordance with CCR 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:

1. Is responsible for the execution of a distinct element of the work of the contract
2. Carries out the obligation by actually performing, managing, or supervising the work involved
3. Performs work that is normal for its business services and functions
4. Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices
5. Is responsible, with respect to products, inventories, materials, and supplies required for the contract, for negotiating price, determining quality and quantity, ordering, installing, if applicable, and making payment; and
6. Its role is not an extra participant in the transaction, contract or project through which funds are passed in order to obtain the appearance of DVBE participation.

**DISABLED VETERAN**

A disabled veteran, for purposes of DVBE certification eligibility, is defined as a veteran of the military, naval or air services of the United States with at least a 10 percent service-connected disability, and who is a resident of the State of California.

**DISABLED VETERAN BUSINESS ENTERPRISE (DVBE)**

DVBE is a business enterprise certified by the Office of Small Business and DVBE Services (OSDS) as meeting all of the following criteria:

- Sole proprietorship owned by a disabled veteran; or a firm or partnership, 51 percent of the stock or partnership interests of which are owned by one or more disabled veterans
- Managed by and with the daily business operations controlled by one or more disabled veterans
- Sole proprietorship, corporation or partnership with its home office located in the United States which is not a branch or subsidiary of a foreign corporation, firm or other business

**DWR ADDITIONAL PROVISIONS – DVBE PROGRAM CLAUSES**

Please review the additional provisions, which define Contractor obligations related to the DVBE program, which may be included in the final contract. Proposer is advised to carefully review the Additional Provisions, to understand relevant obligations pertaining to the DVBE program.

**CONTRACT AMENDMENTS – DVBE PROGRAM REQUIREMENTS**

Disabled Veteran Business Enterprise (DVBE) program requirements shall be included and made a part of any subsequent contract amendment(s) when DVBE program requirements were included as part of the Department's original solicitation/contract effort. DVBE participation program goals (3 percent) are extended through the amended contract termination date and include any additionally encumbered funds that are a result of the contract amendment. The 90-Day and Final DVBE Subcontracting Activity Report shall be included in all subsequent contract amendment(s). The Contractor shall be responsible for continued program

**CONTRACT AUDITS RELATED TO DVBE PROGRAM REQUIREMENTS**

Contractor agrees that the State or its designee shall have the right to review, obtain, or copy all records pertaining to performance of the contract as performance pertains to DVBE requirements. Contractor agrees to provide the State or its representative with any relevant information requested and shall permit the State or its representative access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. Contractor further agrees to maintain such records for a period of no less than three (3) years after final payment under the contract.

**CONTRACTOR CERTIFICATION OF PAYMENT TO SMALL BUSINESS AND DVBE SUBCONTRACTOR(S)**

- a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
- b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation not less than \$2,500 and not to exceed \$25,000. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841)

Contractor Certification must be made using DWR Form 9683 "Small Business and DVBE Subcontractor Payment Certification", included in this attachment.

**SUBSTITUTION OF A DVBE SUBCONTRACTOR**

Contractor understands and agrees that should award of this contract be based in part on their commitment to use the Disabled Veteran Business Enterprise (DVBE) subcontractor(s) identified in their bid or offer, per Military and Veterans Code 999.5(e), a DVBE subcontractor may only be replaced by another DVBE subcontractor and must be approved by the Department of General Services. Changes to the scope of work that impact the DVBE subcontractor(s) identified in the bid or offer and approved DVBE substitutions shall be documented by contract amendment.

Failure of Contractor to seek substitution and adhere to the DVBE participation level identified in the bid or offer may be cause for contract termination, recovery of damages under rights and remedies due the State, and penalties as outlined in Military and Veterans Code 999.9; Public Contract Code (PCC) Section 10115, or PCC Section 4110 (applies to public works only). Contractor must immediately notify the Department's SB/DVBE Advocate that substitution of a DVBE subcontractor is requested.

**DVBE SUBCONTRACTOR ACTIVITY REPORTS – DWR 9553**

The Contractor is required to furnish the Department with reports of DVBE subcontractor activity using the DWR 9553. Reports are to be made at 90-day intervals and must identify the DVBE subcontractor, the services performed or commodities used and the total paid to the subcontractor during the quarterly period reported. A final activity report is to be submitted prior to the contract expiration date. If multiple DVBE contractors are providing services or commodities, the Contractor must furnish individual reports for each DVBE subcontractor used.

The first report is due 90-days from the date of contract approval. At the Department’s request, the Contractor shall submit copies of the DVBE contractor’s paid invoices issued for that 90-day reporting period or final report.

If the Contractor fails to furnish the required reports, the Department may withhold final payment until the Contractor provides the required reports and, when requested by the Department, copies of paid invoices.

Final reports must be received by the Department at least 14 days prior to the contract expiration date.

Reports shall be made using the DVBE Activity Report Form 9553, Included in this attachment. **All reports shall be made to both the Department of Water Resources DVBE Advocate and the Project Manager for the contract as follows:**

Mail Reports to:

Department of Water Resources	Department of Water Resources
DVBE Advocate	Program Manager
1416, Ninth Street, Room 345-1	Address
P.O. Box 942836	Address
Sacramento, California, 95814	City, State, Zip Code

**DVBE PROGRAM COMPLIANCE NOTIFICATION**

Upon request, the department’s Advocate shall provide a pre-review of a Proposer’s DVBE documentation to ensure their bid response is compliant with DVBE program requirements. Proposers must submit their documents at least three (3) working days prior to final bid submission. Upon verification of program compliance, the Advocate shall issue a *Notification of Compliance* confirming the Proposer has satisfied DVBE program requirements related to this solicitation. Proposers are advised to seek a pre-review of their documentation. Documents for review may be faxed to (916) 654-6511 or emailed to: [Richard.Zmuda@water.ca.gov](mailto:Richard.Zmuda@water.ca.gov)

**SUGGESTIONS FOR LOCATING DVBE FIRMS**

**Contact the Awarding Department**

- Contact the DWR SB/DVBE Advocate for suggested DVBE firms who may have identified themselves as potential subcontractors, or for a list of firms the department may have created in response to this solicitation.

**Other State and Federal Agencies and Local Organizations**

**STATE:** Access the list of certified DVBE firms by using the Department of General Services, Procurement Division (DGS-PD) online certified firm database . Access the database at: [www.eprocure.dgs.ca.gov](http://www.eprocure.dgs.ca.gov)

To begin your search:

- Click on “SB/DVBE Search”. “Search by Keywords” OR “United Nations Standard Products and Services Codes (UNSPC)” that applies to the elements you wants to subcontract to a DVBE.
- Check for Subcontractor ads that may be placed on the California State Contracts Register for this solicitation prior to the closing date. Access CSCR at: [www.eprocure.dgs.ca.gov](http://www.eprocure.dgs.ca.gov)
- Contact OSDS at (916) 375-4940 for assistance, or email at: [OSDSHelp@dgs.ca.gov](mailto:OSDSHelp@dgs.ca.gov)

**FEDERAL:** Search the U.S. Small Business Administrations (SBA) Central Contractor Registration (CCR) on-line database at [www.ccr.gov/](http://www.ccr.gov/) to identify potential DVBE firms and click on the: “Dynamic Small Business

Search” button. Search options and information are provided on the CCR site and first time users are advised to “click” on the help button for detailed instructions.

**ADVICE:** DVBE firms located on the SBA CCR site must be confirmed as California DVBE certified in order to receive DVBE participation credit. Cross check the firm against the DGS OSDS firm listing to verify firm is in fact a California certified DVBE.

**LOCAL:** Contact local DVBE organizations to identify DVBEs. For a list of local organizations, go to [www.pd.dgs.ca.gov/smbus](http://www.pd.dgs.ca.gov/smbus) and select: DVBE Local Contacts.

**WEBSITE RESOURCES AND INFORMATION**

RESOURCE	FOR
<p><b>U.S. Small Business Administration (SBA):</b>  <a href="http://www.sba.gov/">http://www.sba.gov/</a>                      Access the Central Contractor Registration on-line database.                      Available only through Internet contact.</p>	<p>Service-Disabled-owned businesses in California. <i>Be sure to verify each DVBE’s California Certification.</i></p>
<p><b>Local Organizations:</b> Go to <a href="http://www.pd.dgs.ca.gov/smbus">www.pd.dgs.ca.gov/smbus</a> and select: DVBE Local Contacts (New 02.09) (pdf)</p>	<p>List of potential DVBE subcontractors</p>
<p><b>DGS-PD EProcurement</b>                      Website: <a href="http://www.eprocure.dgs.ca.gov">www.eprocure.dgs.ca.gov</a>                      Phone: (916) 375-2000                      Email: <a href="mailto:eprocure@dgs.ca.gov">eprocure@dgs.ca.gov</a></p>	<ul style="list-style-type: none"> <li>• SB/DVBE Search</li> </ul>
<p><b>DGS-PD Office of Small Business and DVBE Services (OSDS)</b>                      707 Third Street, Room 1-400, West Sacramento, CA 95605                      Website: <a href="http://www.pd.dgs.ca.gov/smbus">www.pd.dgs.ca.gov/smbus</a>                      OSDS Receptionist, 8 am-5 pm: (916) 375-4940                      PD Receptionist 8 am-5 pm: (800) 559-5529                      Fax: (916) 375-4950                      Email: <a href="mailto:OSDSHelp@dgs.ca.gov">OSDSHelp@dgs.ca.gov</a></p>	<ul style="list-style-type: none"> <li>• Directory of California-Certified DVBEs</li> <li>• Certification Applications</li> <li>• Certification Information</li> <li>• Certification Status, Concerns</li> <li>• General DVBE program information</li> <li>• DVBE Business Utilization Plan</li> <li>• Small Business/DVBE Advocates</li> </ul>
<p><b>Department of Water Resources</b>                      Richard Zmuda, Small Business DVBE Advocate                      1416 9<sup>th</sup> Street, Room 354                      Sacramento, CA 95814                      DWR SB/DVBE Website: <a href="http://www.water.ca.gov/sbe/index.cfm">http://www.water.ca.gov/sbe/index.cfm</a>                      Email: <a href="mailto:Richard.zmuda@water.ca.gov">Richard.zmuda@water.ca.gov</a>                      Phone: (916) 653-9813 Fax: (916) 654-6511</p>	<p>Assistance locating DVBE firms related specifically to the advertised solicitation                      Proposer is responding to.</p>

**DWR 9666 - DVBE INCENTIVE INFORMATION AND DOCUMENTATION**

In order to receive a DVBE Incentive application, Proposers must complete and return DWR Forms 9666, Documentation of DVBE Program Requirements, page 39 and Proposer Certification of DVBE Participation page 40. Failure to do so shall result in no Incentive being applied.

**MINIMUM DVBE COMMITMENT LEVEL**

Proposer DVBE commitment must be more than 1 percent. Incentive calculations shall not be applied to commitments of less than 1 percent. Proposer selects either Option 1 – Proposer is a Certified DVBE, or Option 2 Non-DVBE Proposer. Failure to complete and submit the required forms as instructed shall result in no application of the DVBE Incentive.

**SELECTION OF DVBE COMMITMENT OPTION****OPTION 1 – PROPOSER IS ITSELF A CERTIFIED DVBE**

- Proposer commits to performing at least one (1) percent of the contract amount as a prime firm or in combination with other DVBE firms.
- Proposer must document DVBE participation level using the DWR 9666, Documentation of DVBE Program Requirements.
- Proposer must submit DWR 9666, Proposer Certification of DVBE Participation confirming DVBE commitment.
- Proposer must provide evidence of DVBE certification – obtained through the Office of Small Business and DVBE Services (OSDS).

**OPTION 2 – PROPOSER DVBE COMMITMENT**

- Commit to a certified DVBE firm for at least 1 percent of the bid amount.
- Proposer must document DVBE participation level using the DWR 9666, Documentation of DVBE Program Requirements.
- Proposer must submit written confirmation and acceptance from the identified DVBE subcontractor using DWR 9666, Proposer Certification of DVBE Participation.
- Proposer must submit evidence of DVBE certification – obtained through the Office of Small Business and DVBE Services (OSDS).

## DWR 9666, DOCUMENTATION OF DVBE PROGRAM REQUIREMENTS

### PROPOSER IS ADVISED TO READ INSTRUCTIONS CAREFULLY.

#### **COMMERCIALLY USEFUL FUNCTION (California Code of Regulations, Title 2, Section 1896.71 (I))**

DVBE firms must perform a “commercially useful function” relevant to this contract. The term “DVBE contractor, subcontractor or supplier” means any person or entity that satisfies the ownership (or management) and control requirements of CCR 1896.61 (f); is certified in accordance with CCR 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:

1. Is responsible for the execution of a distinct element of the work of the contract
2. Carries out the obligation by actually performing, managing, or supervising the work involved
3. Performs work that is normal for its business services and functions
4. Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices
5. Is responsible, with respect to products, inventories, materials, and supplies required for the contract, for negotiating price, determining quality and quantity, ordering, installing, if applicable, and making payment; and
6. Its role is not an extra participant in the transaction, contract or project through which funds are passed in order to obtain the appearance of DVBE participation.

**DVBE OPTION DESIGNATION** - Check the appropriate box to indicate the option you are choosing with which to meet your DVBE commitment. You are advised to read all instructions carefully prior to completing the forms.

- OPTION 1:** We are a certified DVBE firm bidding this solicitation as a prime firm and our commitment is at least three percent.
- OPTION 2:** We are not a certified DVBE firm. We have committed to meeting DVBE participation of at least 3 or more percent.

#### **INSTRUCTIONS FOR DOCUMENTING DVBE PROGRAM REQUIREMENTS**

Read the following information carefully. Failure to comply with DVBE program requirements may result in rejection of your bid.

#### **DWR 9666- “DOCUMENTATION OF DVBE PROGRAM REQUIREMENTS”**

1. Be sure to make the proper determination that the selected DVBE firm meets California CUF requirements.
2. Under “DVBE OPTION DESIGNATION” above, select the option appropriate for your firm’s commitment and then complete the Proposer Certification of DVBE Participation.
  - a. If Option 1 is selected, complete the Proposer Certification, Sections 3 – 4. Include the 9666, Documentation of DVBE Program Requirements, the Proposer Certification of DVBE Participation, and your DVBE certification with your bid response b. For Option 2, see the following instructions.

#### **DWR 9666 - PROPOSER CERTIFICATION OF DVBE PARTICIPATION**

Proposers requesting the DVBE Incentive are required to complete DWR 9666 - PROPOSER CERTIFICATION OF DVBE PARTICIPATION to document their commitment to a DVBE firm or firms. A separate form is required for each DVBE commitment. Failure to submit this form with your bid shall result in a determination of noncompliance and your bid shall be rejected.

- Section 1 Complete your prime firm/Proposer business information
- Section 2 Identify services or commodities to be provided by the DVBE subcontractor
- Section 3: Identify the commitment level your firm is making to the DVBE subcontractor; provide the printed and signed name of the legally authorized representative and sign and date the document.
- Section 4: Is to be completed by the DVBE firm. Fax the completed/signed document to the DVBE. Provide the DVBE firm with instructions to:
- Complete the form, and include all requested information
  - Sign and date the form
  - Attach a current copy of their OSDS certification – available through OSDS eProcurement SB/DVBE certification website
  - Return both forms to you; email or fax is acceptable.

#### **DISABLED VETERAN BUSINESS ENTERPRISE DECLARATIONS, STD. 843**

All prime DVBE firms or DVBE firms acting as subcontractors for materials, supplies, services or equipment rental must submit an original signed DVBE Declaration, Std. 843 with their bid, or provide one to the prime for inclusion with their bid submittal. [Military and Veterans Code 999.3

#### **PROPOSER DECLARATION GSPD-05-105**

All Proposers responding to this solicitation must complete the Proposer Declaration GSPD-05-105 and include it with their bid response. When completing the declaration, Proposers responding to the solicitation must identify all SB and or DVBE subcontractors proposed for participation in the contract. Proposers awarded a contract are contractually obligated to use the SB or DVBE subcontractor for the work identified unless the State agrees to a substitution. The Department must be notified in writing that a substitution is requested and any substitution of a Small Business or DVBE firm must be approved by the State.

**DWR 9666 - PROPOSER CERTIFICATION OF DVBE PARTICIPATION**

In accordance with Military and Veterans Code, Article 6 (commencing with Section 999) of Chapter 6, Division 4 of the California Military Code, Public Contract Code 10115, as the prime Proposer, you are yourself, or you have selected, and mutually agreed to partner with, a California certified DVBE contractor to provide commodities or services related to the performance of services identified in Department of Water Resources IFB/RFP solicitation document. Submission of this form constitutes an agreement between the Prime Proposer and the Certified DVBE Sub-Contractor to fulfill California Disabled Veteran Business Enterprise Participation Program requirements related to the final executed contract. Any change to the DVBE sub-contractor must be submitting in writing to the Department's DVBE Advocate.

*The Proposer Certification form must be signed by company representatives with recognized legal authority to do so.*

SECTION 1 - PRIME PROPOSER BUSINESS INFORMATION					
<b>FIRM NAME</b>					
<b>FIRM CONTACT</b>					
<b>STREET ADDRESS</b>					
<b>CITY</b>		<b>STATE</b>		<b>ZIP</b>	
<b>FIRM TELEPHONE</b>		<b>FAX#:</b>			
<b>EMAIL</b>				<b>FEIN#</b>	

**SECTION 2 - IDENTIFY THE SERVICES OR COMMODITIES TO BE PROVIDED BY THE SELECTED DVBE FIRM(S)**

**SECTION 3 - IDENTIFY YOUR FIRM'S DVBE COMMITMENT**

\_\_\_ I HAVE COMMITTED 3 PERCENT TO THE DVBE FIRM LISTED BELOW

\_\_\_ I HAVE COMMITTED GREATER THAN THREE PERCENT. PERCENT COMMITTED: \_\_\_\_\_%

\_\_\_ I HAVE COMMITTED TO MULTIPLE DVBE FIRMS TO SATISFY OVERALL BID REQUIREMENTS. THE COMMITMENT LEVEL FOR THE DVBE FIRM LISTED BELOW IS: \_\_\_\_\_%

Printed Name of Authorized Representative	Signature of Authorized Representative	Date

SECTION 4 - DVBE FIRM INFORMATION					
<b>FIRM NAME</b>					
<b>FIRM CONTACT</b>					
<b>STREET ADDRESS</b>					
<b>CITY</b>		<b>STATE</b>		<b>ZIP</b>	
<b>FIRM TELEPHONE</b>		<b>FAX#:</b>			
<b>EMAIL</b>				<b>DGS OSDS CERTIFICATION #</b>	

Printed Name of Authorized DVBE Representative	Signature of Authorized DVBE Representative	Date

**BUSINESS ENTERPRISE DECLARATIONS** STD. 843 (Rev. 5/2006)

**Instructions:** The disabled veteran (DV) owner(s) and DV manager(s) of the Disabled Veteran Business Enterprise (DVBE) must complete this declaration when a DVBE contractor or subcontractor shall provide materials, supplies, services or equipment [Military and Veterans Code Section 999.2]. Violations are misdemeanors and punishable by imprisonment or fine and violators are liable for civil penalties. All signatures are made under penalty of perjury.

**SECTION 1**

Name of certified DVBE: \_\_\_\_\_ DVBE Ref. Number: \_\_\_\_\_

Description (materials/supplies/services/equipment proposed): \_\_\_\_\_

Solicitation/Contract Number: \_\_\_\_\_ SCPRS Ref. Number: \_\_\_\_\_  
(FOR STATE USE ONLY)

**SECTION 2**

**APPLIES TO ALL DVBEs. Check only one box in Section 2 and provide original signatures.**

- I (we) declare that the DVBE is not a broker or agent, as defined in Military and Veterans Code Section 999.2 (b), of materials, supplies, services or equipment listed above. Also, complete Section 3 below if renting equipment.
- Pursuant to Military and Veterans Code Section 999.2 (f), I (we) declare that the DVBE is a broker or agent for the principal(s) listed below or on an attached sheet(s). (Pursuant to Military and Veterans Code 999.2 (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 DVBE participation goal.)

All DV owners and managers of the DVBE (attach additional pages with sufficient signature blocks for each person to sign):

\_\_\_\_\_  
(Printed Name of DV Owner/Manager) (Signature of DV Owner/ Manager) (Date Signed)

\_\_\_\_\_  
(Printed Name of DV Owner/Manager) (Signature of DV Owner/Manager) (Date Signed)

Firm/Principal for whom the DVBE is acting as a broker or agent:  
(If more than one firm, list on extra sheets.) \_\_\_\_\_  
(Print or Type Name)

Firm/Principal Phone: \_\_\_\_\_ Address: \_\_\_\_\_

**SECTION 3**

**APPLIES TO ALL DVBEs THAT RENT EQUIPMENT AND DECLARE THE DVBE IS NOT A BROKER.**

- Pursuant to Military and Veterans Code Section 999.2 (c), (d) and (g), I am (we are) the DV(s) with at least 51% ownership of the DVBE, or a DV manager(s) of the DVBE. The DVBE maintains certification requirements in accordance with Military and Veterans Code Section 999 et. seq.
- The undersigned owner(s) own(s) at least 51% of the quantity and value of each piece of equipment that shall be rented for use in the contract identified above. I (we), the DV owners of the equipment, have submitted to the administering agency my (our) personal federal tax return(s) at time of certification and annually thereafter as defined in *Military and Veterans Code 999.2*, subsections (c) and (g). *Failure by the disabled veteran equipment owner(s) to submit their personal federal tax return(s) to the administering agency as defined in Military and Veterans Code 999.2, subsections (c) and (g), shall result in the DVBE being deemed an equipment broker.*

Disabled Veteran Owner(s) of the DVBE (attach additional pages with signature blocks for each person to sign):

\_\_\_\_\_  
(Printed Name) (Signature) (Date Signed)

\_\_\_\_\_  
(Address of Owner) (Telephone) (Tax Identification Number of Owner)

Disabled Veteran Manager(s) of the DVBE (attach additional pages with sufficient signature blocks for each person to sign):

\_\_\_\_\_  
(Printed Name of DV Manager) (Signature of DV Manager) (Date Signed)

**DVBE ACTIVITY REPORT FORM**

Contract No.: 10404729 Bid Number: \_\_\_\_\_  
Exhibit: \_\_\_\_\_ Attachment: \_\_\_\_\_

**REQUIRED REPORTING FORMAT**

Prime Contractor:		DVBE Sub-Contractor:	
Contact Name:		Contact Name:	
Telephone Number:		Telephone Number:	
DWR Contract Number:	10404729	DVBE OSDS No.:	
Report Date:		Percent Subcontracted:	_____
<b>Contract Amount:</b>		<b>DVBE Commitment Goal:</b>	

DVBE Invoice or Order Number	Date Service or Commodity Provided	Service or Commodity Provided	Invoice Amount	Date Paid
		<b>TOTAL</b>		

Are you reporting 90-day Activity?  Yes  No  
Reporting Period: \_\_\_\_\_ to \_\_\_\_\_

Are you making a Final Report?  Yes  No

What is the status of the DVBE services or commodities to be used? (i.e. have services begun, are commodities on order, etc.?)

If services or commodities have not been obtained, how and when shall the commitment be achieved?

Authorized Signature: \_\_\_\_\_

Title: \_\_\_\_\_

DWR 9553 (Rev. 6/10)

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### Instructions for Completing the DVBE Activity Report

#### **Contractor:**

1. Your firm is responsible for reporting your company's DVBE sub-contracting activity.
2. If the DVBE services or commodities are of an ongoing nature throughout the term of the contract, your firm is required to provide 90-day activity reports. If the contract term is extended, reports are required for the duration of the amended term.
3. If the DVBE services or commodities are a one-time purchase and meet the commitment goal, a single report shall satisfy the reporting requirement.
4. The first report is due 90 days after the start date identified on the contract. Example: If the contract start date is September 1; the first report is due December 1.
5. When the approval process of a contract extends beyond the *intended* start date of a contract, the first report shall be due 90 days after final approval. For example: August 1, 2003 is the intended contract start date. The contract approval process is not completed until September 10, 2003. The first 90-day report shall be due January 10, 2004.
6. Final Activity Reports are due 14 days **prior** to the contract expiration date.
7. Reports must be made to both the DVBE Advocate for the Department and the DWR Project Manager.

#### **Completing the DVBE Activity Report Form**

1. Complete both Prime Contractor and DVBE Contractor Information; provide contact names and telephone numbers.
2. Identify the contract number associated with this report.
3. Provide the DVBE contractor's Department of General Services OSDS certification number.

4. Identify the report date and the percent subcontracted to the DVBE contractor.
5. Identify the contract amount and the DVBE sub-contracting commitment goal, expressed in dollars. The dollar amount shall be equal to the percent of the total contract amount for which you have agreed to sub-contract with the DVBE contractor. Both the percent value and the commitment goal must agree with DWR 9526, California DVBE Program Requirements, submitted at the time of bid response.
6. Provide the subcontracting transaction information: Identify invoice or order numbers, dates the service or commodities were provided, the type of service or commodities provided by the DVBE, the amount invoiced and the date paid. Provide the total transaction amount(s) for this report.
7. The Department may request copies of paid invoices. If so, include copies of invoice(s) with submittal of this report.
8. Identify whether this report is a 90-day or final activity report. For 90-day activity reports, identify the report period.
9. Provide a status on the use of the DVBE. Are his/her services needed yet? Shall services begin soon? Are the commodities on order? Are commodities needed at a later phase of the contract? If so, identify when they shall be required.
10. If the DVBE has not yet been utilized, explain when and how the commitment shall be achieved.
11. Provide the firm's authorized signature and title.

**Email form to:** [Richard.Zmuda@water.ca.gov](mailto:Richard.Zmuda@water.ca.gov)

**Or**

**Fax to both:** DWR DVBE Advocate at (916) 653-9813

Contract Project Manager (916) 574-0940

**SMALL BUSINESS AND DVBE SUBCONTRACTOR PAYMENT CERTIFICATION**

Contract No.: 10404729

As the Contractor of record for the Department of Water Resources, Contract 10404729, I certify, in accordance with Government Code 14841 and Military and Veteran Code § 999.5, that pursuant to the terms and conditions of the Contract, all payments have been made to the small business or DVBE firm(s) listed below for commodities or services rendered as the SB or DVBE subcontractor(s) for this contract. I understand certification must be made to the Department of Water Resources within 60 days of receiving final payment under this Agreement. I further understand and acknowledge that falsification of this Certification may result in the imposition of civil or criminal penalties for not less than \$2,500 or more than \$25,000 for each violation.

*Instruction: Please copy this form to include as many Small Businesses or DVBE firms as necessary. Authorized signatures and information are required on each separately submitted form.*

*Return completed form to: Department of Water Resources, Attention DWR SB/DVBE Advocate, 1416 9<sup>th</sup> Street, Room 345-1, Sacramento, CA 95814*

<b>Contracted Firm Name:</b>					
Name of Firm Representative:					
Title:					
Phone:		Fax:			
<b>Firm Address:</b>	Street				
	City	State	Zip		
<b>DWR Contract Number:</b>	10404729				
<b>Total Amount Received Under this</b>	\$	<b>Date Final Payment Received:</b>			

**SMALL BUSINESS - DVBE SUBCONTRACTOR INFORMATION**

SB/DVBE Subcontractor	Street	City/State	Zip	Amount Paid	Participation

					Achieved
1				\$	%
2				\$	%
3				\$	%
4				\$	%

Printed Name		Signature	
Title		Report Date	

DWR 9683 (New 6/11)

## Attachment 8 – Contractor 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>	

### **SECTION 1 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 shall comply with the requirements of the Drug-Free Workplace Act of 1990 and shall 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 shall:

- 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 shall 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](http://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 shall 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 shall 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 shall 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 shall 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.

9. Contractor possesses current and valid licenses in classifications appropriate to the work to be undertaken and the certificates of licensure are submitted herewith.