

## Appendix SDVOB



New York State Department of Labor  
Purchase and Contracts  
Service-Disabled Veteran Owned Business Participation

### **PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN OWNED BUSINESSES (SDVOBs)**

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOB”), thereby further integrating such businesses into New York State’s economy. The Department of Labor recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of Department of Labor contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

#### **I. Contract Goals**

- A. The Department of Labor hereby establishes an overall goal of **6%** for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at: <https://online.ogs.ny.gov/SDVOB/search>. Questions regarding compliance with SDVOB participation goals should be directed to NYS Department of Labor, SDVOB Administrator, Purchase and Contracts, State Campus, Building 12, Room 454, Albany, NY 12240. Email: [Labor.sm.SDVOBAdmin@labor.ny.gov](mailto:Labor.sm.SDVOBAdmin@labor.ny.gov); Phone: 518-474-2678. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veterans’ Business Development at 518-474-2015 or [VeteransDevelopment@ogs.ny.gov](mailto:VeteransDevelopment@ogs.ny.gov) to discuss additional methods of maximizing participation by SDVOBs on the Contract.
- B. Contractor must document “good faith efforts” to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract (see clause IV below).

#### **II. SDVOB Utilization Plan – Form SDVOB 100**

- A. In accordance with 9 NYCRR § 252.2(i), Bidders are required to submit a completed SDVOB Utilization Plan - Form SDVOB 100 with their bid.
- B. The Utilization Plan shall list the SDVOBs that the Bidder intends to use to perform the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Bidder acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to the Department of Labor.
- C. The Department of Labor will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of the Department of Labor’s acceptance or issue a notice of deficiency within 20 days of receipt.
- D. If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to the Department of Labor a written remedy in response to the notice of deficiency. If the written remedy that is submitted is

not timely or is found by the Department of Labor to be inadequate, the Department of Labor shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by the Department of Labor, a request for a partial or total waiver of SDVOB participation goals - Form SDVOB 200. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

- E. The Department of Labor may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:
  - 1. If a Bidder fails to submit an SDVOB Utilization Plan;
  - 2. If a Bidder fails to submit a written remedy to a notice of deficiency;
  - 3. If a Bidder fails to submit a request for waiver; or
  - 4. If the Department of Labor determines that the Bidder has failed to document good faith efforts.
- F. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.
- G. Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, the Department of Labor shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

### **III. Request for Waiver – Form SDVOB 200**

- A. **Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the SDVOB Administrator at Department of Labor for guidance.**
- B. In accordance with 9 NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form SDVOB 200, accompanied by supporting documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by the Department of Labor at that time, the provisions of clauses II (C), (D) & (E) will apply. If the documentation included with the Bidder's/Contractor's waiver request is complete, the Department of Labor shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.
- C. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to the Department of Labor, but must be made no later than prior to the submission of a request for final payment on the Contract.
- D. If the Department of Labor, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regard to such non-compliance, the Department of Labor may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.
- E. Waiver requests should be sent to the Department of Labor, Purchase and Contracts, SDVOB Administrator, State Campus, Building 12, Room 454, Albany, NY 12240.

#### **IV. Required Good Faith Efforts**

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

1. Copies of solicitations to SDVOBs and any responses thereto.
2. Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected.
3. Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by the Department of Labor with certified SDVOBs whom the Department of Labor determined were capable of fulfilling the SDVOB goals set in the Contract.
4. Information describing the specific steps undertaken to reasonably structure the Contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.
5. Other information deemed relevant to the waiver request.

#### **V. Monthly SDVOB Contractor Compliance Report – Form SDVOB 101**

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report Monthly SDVOB Contractor Compliance Report – SDVOB 101 to the Department of Labor during the term of the Contract for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using form SDVOB 101 available on the Department of Labor's website and should be completed by the Contractor and submitted to the Department of Labor, by the 10th day of each month during the term of the Contract, for the preceding month's activity to: NYS Department of Labor, SDVOB Administrator, Purchase and Contracts, State Campus, Building 12, Room 454, Albany, NY 12240. Email: [Labor.sm.SDVOBAdmin@labor.ny.gov](mailto:Labor.sm.SDVOBAdmin@labor.ny.gov); Phone: 518-474-2678; Fax: 518-457-0620.

#### **VI. Breach of Contract and Damages**

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.