



## **The Division of Service-Disabled Veterans' Business Development ("DSDVBD" or the "Division")**

### **Service-Disabled Veteran-Owned Business (SDVOB) Operations Guidance Document**

The Division of Service-Disabled Veterans' Business Development (DSDVBD) is housed within the New York State Office of General Services and is tasked with promoting and encouraging the continuing economic development of Service-Disabled Veteran-Owned Businesses (SDVOBs). Through the DSDVBD, the State of New York aims to assist service-disabled veterans in playing a greater role in the economy of the state and to provide additional assistance and support to disabled veterans to better equip them to form and expand small businesses, thereby enabling them to realize the American dream they fought to protect. New York State Executive Law [Article 17-B](#) governs requirements for the participation of SDVOBs in New York State contracting. The objective of Article 17-B is to expand opportunities for SDVOBs, primarily through increased participation in New York State contracting.

#### **Key Objectives of the DSDVBD:**

- To encourage and assist State agencies and authorities that are engaged in contracting activities to award a share of State contracts to SDVOBs.
- To review applications by businesses seeking certification as a SDVOB and to maintain a directory of NYS Certified SDVOBs.
- To promote the business development of SDVOBs through education and outreach to agencies, authorities, non-profit organizations, independent contractors, and SDVOBs.
- To collect, review, monitor, and report on data pertaining to the utilization of SDVOBs by NYS agencies and authorities.
- To ensure continued progress toward the statewide SDVOB utilization goal of 6% established by New York State Executive Law [Article 17-B](#).

#### **Purpose**

This SDVOB Operations Guidance Document is designed to provide direction to agencies and authorities in their efforts to meet their SDVOB goals and report on their SDVOB utilization. It, along with other guidance from the DSDVBD, is intended to be used as a refresher and/or an introduction for Diversity Liaisons, Procurement Officers, and other impacted personnel. It is an evolving document that will be edited and updated to improve its effectiveness as the Division continues to fine-tune its operations. Please note that this guidance document is not meant to be a stand-alone resource and should be used in conjunction with other directives, resources, outreach and assistance provided by the DSDVBD. As such, it is highly recommended that your agency or authority contact the DSDVBD at any time should you have any questions related to the administration of the SDVOB program.

#### **List of NYS Certified Service-Disabled Veteran-Owned Businesses**

The DSDVBD maintains a [Directory of NYS Certified SDVOBs](#). The directory is updated regularly with the addition of any newly certified SDVOBs or necessary changes requested by the listed SDVOBs or DSDVBD staff. State personnel and other interested parties may contact the DSDVBD and request they be added to a distribution list to receive notification of directory updates via email. A link to the [Directory of NYS Certified SDVOBs](#) is available on the [DSDVBD website](#).



### **SDVOB Language for all State Contracts**

Any contract that conforms to the definition of state contract as described in the [rules and regulations](#) of the SDVOB program (9 CRR-NY G I 252) shall include language referencing the SDVOB program. Sample SDVOB Contract Language is available on the [DSDVBD website](#). **Language referencing the SDVOB program shall be included in contracts regardless of intent or determination to use SDVOBs in the contract performance as its inclusion will promote awareness of the SDVOB program among bidders/proposers.**

### **Annual State Agency-Specific Goals and Master Goal Plan**

According to the [rules and regulations](#) of the SDVOB program (9 CRR-NY G I 252), "each State agency shall develop and adopt agency-specific goals in accordance with article 17-B of the Executive Law. Such agency specific goals shall be in addition to goals established pursuant to article 15-A of the Executive Law with respect to procurements from certified minority owned and women owned business enterprises." Agency-specific goals shall be detailed in a master goal plan to be submitted to the DSDVBD Director on or before January 15<sup>th</sup> of each year. For guidance in the development of agency-specific goals and a master goal plan, please contact the DSDVBD.

### **Options for the Use of SDVOBs**

Agency and authority personnel have three primary options for using NYS Certified SDVOBs in their contracting/purchasing activities. It is the responsibility of each agency and authority to determine which option, or combination of options, can best achieve the agency-specific goals described in their master goal plan.

1. **SDVOB set-asides:** Set-asides permit the reservation, in whole or in part, of certain procurements by State agencies for SDVOBs when more than one NYS Certified SDVOB is available and can provide the necessary construction, construction services, technology, commodities, products and other classifications to meet a state agency's/authority's form, function and utility. When considering the order of purchasing priority, a state agency/authority may set-aside a procurement opportunity by limiting participation to SDVOBs at any time after considering the use of a preferred source. Although there is no obligation to do so, SDVOB set-asides may be used before centralized contracts and established agency contracts at the discretion of the agency/authority. SDVOB set-asides shall be assessed for M/WBE participation goals pursuant to article 15-A of the Executive Law. For more information about set-asides, see [Guidelines for the Use of Set Aside Contracts with Service-Disabled Veteran-Owned Businesses](#) or contact the DSDVBD.
2. **SDVOB Contract Goal Setting:** A required percentage of SDVOB participation may be placed on qualified procurements. Any contract that conforms to the definition of state contract as described in the [rules and regulations](#) of the SDVOB program (9 CRR-NY G I 252), unless exempt or excluded, may be assessed for SDVOB participation goals. State agencies/authorities shall require contractors to submit SDVOB utilization plans for achieving contract goals established for the participation of NYS Certified SDVOBs with their bids. SDVOB participation goals shall be in addition to any M/WBE goals established pursuant to article 15-A of the Executive Law.



3. **SDVOB Discretionary Purchasing:** NYS Certified SDVOB vendors may be chosen when making discretionary purchases. Discretionary purchases are procurements made below statutorily established monetary levels and at the discretion of the agency, without the need for a formal competitive procurement process. State agencies may use discretionary purchasing authority of up to \$200,000 to purchase from SDVOBs. For more information about discretionary purchasing with SDVOBs, see [Guidelines for Making Discretionary Purchases from Service-Disabled Veteran-Owned Businesses](#).

When assessing a procurement to determine which, if any, of the three options for using NYS Certified SDVOBs should be used, an agency or authority should consider:

- The contract and subcontract scope(s) of work;
- The potential subcontract opportunities available in the prime contract;
- The number and types of NYS Certified SDVOBs available to perform the State contract work;
- The geographic location of the contract performance;
- The extent to which geography is material to the performance of the contract;
- The ability of NYS Certified SDVOBs located outside of the geographic location of contract performance, notwithstanding the regional location of the NYS Certified SDVOB, to perform on the State contract;
- The total dollar value of the work required by the State contract in relation to the dollar value of the subcontracting opportunities;
- The relationship of the monetary size and term of the State contract to the monetary size and term of the project for which the State contract is awarded; and
- The agency or authority's annual agency-specific goal established pursuant to the [rules and regulations](#) of the SDVOB program (9 CRR-NY G I 252).

### **Utilization Rules**

1. **Exemptions and Exclusions:** Agencies and Authorities are responsible for determining which of their contracts and expenditures are appropriate for exemption or exclusion. Exemptions may include intergovernmental charges, fuel for vehicles, milk fund payments, personal services, postage, real estate rentals, sole source contracts, telephones, travel reimbursements, and utilities. Exclusions may include Emergency Contracts, zero-goal contracts (in which the agency or authority has determined no certified SDVOBs are available to do the type of work required in the region where the work is to be done), and contracts established prior to program implementation. Projected exemptions and exclusions should be included in the master goal plan submitted to the DSDVBD each year.
2. **Waivers:** A SDVOB waiver is a reduction or elimination of the SDVOB goal that has been established on a qualified contract. Agencies and authorities are responsible for their own processes and procedures for granting waivers for SDVOB goal requirements in the event that such waivers are necessary. All total and partial waivers granted for SDVOB goal requirements during a given reporting period must be reported to the DSDVBD on form 3 of the SDVOB Activity Quarterly Report for that period. For more information on waivers see the SDVOB Program [rules and regulations](#) (9 CRR-NY G I 252).



3. **Federally Funded Contracts:** *Federal spend* refers to funding provided by the federal government that makes up part or all of the funds in a state contract.
  - a. No SDVOB goals are to be placed on federal funding that is designated as Disadvantaged Business Enterprise (“DBE”) funding.
  - b. 100% federal funded projects which are not DBE may be assessed for SDVOB goals. In so assessing the general rules of SDVOB use and goal setting applies, as well as exemptions, exclusion and waivers.
  - c. Any SDVOB utilization from federally funded contracts (both partially or 100% funded) should be submitted to the DSDVBD with the quarterly utilization report and counted as part of the agency or authority’s total utilization.
4. **Grants:** May be assessed for SDVOB use including SDVOB goal setting (waivers, exemptions and exclusion may apply).
5. **Legislative items from the NYS legislature:** May be assessed for SDVOB use including SDVOB goal setting (waivers, exemptions and exclusion may apply).
6. **Not for profit funds:** May be assessed for SDVOB use including SDVOB goal setting (waivers, exemptions and exclusion may apply). When assessing funds that are earmarked for not for profit procurement, the following consideration applies regarding the setting of SDVOB goals:
  - a. Personal services, rent and utilities are exempted from the total contract value or grant amount.
  - b. To the extent the goods or services being procured for the agency or authority by way of the not for profit is being self-performed by the not for profit (i.e. not procured in the open market), then SDVOB goals do not apply. So if \$100,000 of funds from an agency to a not for profit is being self-performed by the not for profit in the amount of \$60,000, then only \$40,000 may be assessed for SDVOB goals (which may also be adjusted for personal services, rent and utilities as stated above).

**State Agency/Authority Compliance Reporting**

State agencies and authorities subject to Article 17-B shall submit the SDVOB Activity Quarterly Report to the DSDVBD for the following reporting periods:

- |                             |                       |
|-----------------------------|-----------------------|
| Q1: April 1 – June 30       | <i>due July 31</i>    |
| Q2: July 1 – September 30   | <i>due October 31</i> |
| Q3: October 1 – December 31 | <i>due January 31</i> |
| Q4: January 1 – March 31    | <i>due April 30</i>   |

**Guidelines for Completing Agency/Authority SDVOB Activity Quarterly Reports:**

1. **Complete and return ALL THREE forms:** The DSDVBD requires agencies/authorities to report SDVOB activity using three forms:
  - **SDVOB Awards (form 1)**
  - **SDVOB Disbursements/Utilization (form 2)** and
  - **SDVOB Waivers (form 3).**



The three forms can be downloaded from the [DSDVBD website](#) and should be completed and returned to [SDVOBreports@ogs.ny.gov](mailto:SDVOBreports@ogs.ny.gov). In the event that your agency/authority has not engaged in one or more types of SDVOB activity during the reporting period, enter "NA" or "0" into the appropriate fields on the form(s).

2. **Awards:** Only *executed contracts* and *dispatched purchase orders* during the reporting period should be reported as awards on form 1.
3. **Disbursements:** Only actual payments that have been made to a vendor during the reporting period, either through the Office of the State Comptroller or by an agency/authority's finance office directly, including subcontractor payments made by a prime contractor and verified by the agency/authority, should be reported as disbursements.
4. **Total Agency/Authority Non-Exempt and Non-Excluded Disbursements:** This is the total disbursements made by the agency/authority during the reporting period less exemptions and exclusions. **Exemptions** may include intergovernmental charges, fuel for vehicles, milk fund payments, personal services, postage, real estate rentals, sole source contracts, telephones, travel reimbursements, and utilities. **Exclusions** may include Emergency Contracts, zero-goal contracts (in which the agency/authority has determined no certified SDVOBs are available to do the type of work required in the region where the work is to be done), and contracts established prior to SDVOB program implementation. In the event that disbursements are made to an SDVOB under circumstances that would normally be considered exempt or excluded, those disbursements may be counted as SDVOB utilization and should be recorded on form 2.
5. **Waivers:** All total and partial waivers for SDVOB goal requirements granted during a given reporting period, in compliance with an agency/authority's internal processes and procedures for granting waivers, must be reported to the DSDVBD on form 3.

### **Contact the Division of Service-Disabled Veterans' Business Development (DSDVBD)**

The DSDVBD is responsible for assisting State agencies and authorities in their compliance with New York State Executive Law [Article 17-B](#). DSDVBD staff are available to answer any questions regarding the information and instructions provided in this guidance document as well as to consult with agencies, authorities, and other interested parties regarding any efforts or concerns related to the promotion and development of Service-Disabled Veteran-Owned Businesses in the State of New York.

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