

**COUNCIL POLICY  
CITY OF CHULA VISTA**

<b>SUBJECT:</b>	<b>POLICY NUMBER</b>	<b>EFFECTIVE DATE</b>	<b>PAGE</b>
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**ADOPTED BY:** (Resolution No.)

**DATED:**

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**BACKGROUND**

Disabled Veterans have made immeasurable sacrifices to protect the citizens of this country. These sacrifices have not gone unnoticed. The State and ~~some-various~~ local agencies, whether city or county, have enacted certain programs to assist Disabled Veterans and provide them with opportunities to participate in the procurement of State and local contracts. Such programs are called “Disabled Veterans Business Enterprise” programs. Similar programs also exist for small businesses. Small businesses tend to be economic drivers of local economies, so their growth is an important aspect of the success and growth of communities. However, small businesses often don’t have sufficient understanding of government contracting practices to participate in a meaningful way in the government contracting process, so agencies have established “Small Business Enterprise” programs.

**PURPOSE**

It is the purpose of this Council Policy to establish a Disabled Veterans Business Enterprise and Small Business Enterprise Program to facilitate and encourage the participation of Disabled Veterans Business Enterprises (DVBEs) and Small Business Enterprises (SBEs) in City contracting through the establishment of DVBE and SBE participation goals. By including DVBE and SBE participation goals in City contracts, the City will be able to ensure that DVBEs and SBEs are provided with the opportunities, information, and encouragement to participate in City procurement.

**POLICY**

The City of Chula Vista has the authority to establish and adopt such a policy pursuant to the Charter of the City of Chula Vista. It is the policy of the City of Chula Vista to encourage the utilization and participation of DVBEs and SBEs in City procurements whenever practical and appropriate. To this end and to the extent not in conflict with other laws, the City Council, through this Policy, establishes a three-percent (3%) DVBE and ~~three-percent (3%)~~ SBE participation goal for all City contracts within the scope of this policy and authorizes the City Manager or his/her designee to establish procedures to implement this policy.

**I. Scope**

- A. General Application: Excepting those contracts identified in subsection B, below, this policy shall apply to all (1) agreements, contracts, and purchase orders for commodities, services, supplies, or equipment awarded in accordance with Chula Vista Municipal Code §2.56; and (2)

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Public Works contracts awarded in accordance with City Charter §1009, provided such contracts are funded to the extent of 50% or more of their total costs from City funds.

B. Exceptions: this Policy shall not apply to:

1. Sole Source contracts.
2. Contracts necessitated by an emergency.
3. Contracts for which the Awarding Authority has determined that compliance with this Policy would be Impractical or Impossible.
4. Transfers of any interest in real or personal property, including leases.
5. Agreements or memorandums of understanding with another government agency.
6. Contracts with a private, nonprofit organization.
7. With respect to DVBE participation, contracts where the prime contractor on the contract is a DVBE.
8. With respect to SBE participation, contracts where the prime contractor on the contract is an SBE.
9. With respect to DVBE participation, all public works contracts where the procurement complies with any applicable federal or state DVBE requirements.
10. With respect to SBE participation, all public works contracts where the procurement complies with any applicable federal or state SBE requirements.
11. Public works contracts of less than \$100,000.
12. Cooperative or joint purchases in accordance with CVMC §2.56.020(H)
13. When compliance with this Policy would conflict with requirements imposed by the federal or state government relating to the receipt or use of federal or state funds.
14. Contracts for commodities, services, supplies, or equipment of \$100,000 or less that are based on market rates awarded in accordance with CVMC §2.56.090(B)(2)
15. Where application of this Policy would conflict with any restrictions imposed on grant or donated funds.
16. Public Works Contracts in which Minority Business Enterprise (MBE), Woman-Owned Business Enterprise (WBE), and/or Underutilized Disadvantaged Business Enterprise (UDBE) goals are required by state or federal government entity.

II. Definitions:

1. "Awarding Authority" shall mean the body or individual granted the authority by the Chula Vista Charter or the CVMC to award a contract.

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2. "Disabled Veterans Business Enterprise" or "DVBE" shall have the same meaning as in California Military and Veterans Code §999(b)(7).
3. "Goal" shall mean a numerically expressed objective that contractors are required to make Good Faith Efforts to achieve.
4. "Good Faith Efforts" shall mean those efforts taken to solicit the participation of DVBE and SBE bidders in the City's procurement process, including, but not limited to: (a) regular outreach to DVBEs and SBEs by City and prime contractors; (b) providing information and training, if requested, on how DVBEs and SBEs may participate in the City's procurement process, either as a prime contractor or as a subcontractor (c) contacting DVBEs and SBEs via telephone, FAX, or other means to solicit said DVBEs' and SBE's participation in the bidding and procurement opportunities; (d) maintaining a list of DVBEs and SBEs willing and able to provide commodities, services, supplies, or equipment; (e) incorporating competitive DVBE and SBE bid proposals in prime contractor's bid; (f) demonstrating and documenting that such efforts were taken to solicit bids from DVBEs and SBEs..
5. "Impracticality" or "Impossibility" shall mean that there are no known DVBEs or SBEs that are willing or able to provide specific commodities, services, supplies, or equipment.
6. "Public Works" shall mean the construction, reconstruction, or repair of public buildings, streets, drains, sewers, utilities, parks and playgrounds, or other public capital facilities, and the supplies, materials, equipment or other contractual services for same.
7. "Small Business Enterprise" or "SBE" shall have the same meaning as in California Government Code §14837(d)(1).

**III. General Requirements for Prime Contractors**

A. Subject to any contrary provisions of state or federal law, where a prime contractor intends to use subcontractors on any contract within the scope of this policy as described in Section I, "Scope," above, and the procurement is not exempt from participation, the prime contractor shall make Good Faith Efforts to meet or exceed the Goals of 3% DVBE and 3% SBE subcontractor participation.

**B. Participation Calculation:**

1. Except for "As Needed" contracts, such as job/task order contracts, the percentage of the relevant participation goal (DVBE or SBE) shall be calculated by taking the aggregate value of all DVBE subcontracts to determine DVBE participation and SBE subcontracts to determine SBE participation to be used on the project as a percentage of the total value of

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each such contract.

2. "As Needed" contract participation percentage calculation shall be based on value of each task order. Prime contractors subject to the participation requirements shall submit a DVBE and SBE subcontractor utilization plan for City's review and approval prior to commencing work.

**IV. Establishment and Issuance of Guidelines for the Implementation of the DVBE and SBE Program.**

A. The City Manager, in consultation with the affected departments, shall establish administrative guidelines for the implementation of the DVBE and SBE Program. The guidelines shall include, at a minimum:

1. An explanation of procedures, processes, and/or actions that a contractor may perform to satisfy the Good Faith Efforts requirement of the DVBE and SBE Program.
2. The method of documenting a contractor's Good Faith Efforts to comply with the DVBE and SBE Program goals of 3% DVBE and 3% SBE participation.
3. Documentation to be supplied to bidders to inform them of their obligations for and the manner of compliance with the DVBE and SBE Program.
4. Forms on which the City staff reviewing bids shall identify how a bidder has complied with or failed to comply with the requirements of the DVBE and SBE Program.
5. Description of the protest process for those lowest bidders that have been determined by the City to be non-responsive based on the guidelines issued in accordance with this Policy.

B. The City Manager's administrative guidelines may differ depending on the nature of the contract (i.e. public works, equipment, materials, or services).

**V. Failure to Demonstrate "Good Faith Efforts":**

A. A bidder that fails to demonstrate "Good Faith Efforts" to meet the DVBE and SBE participation percentage may be considered "nonresponsive" and an award shall be made to the next lowest responsible and responsive bidder that complies with this policy.

B. The Awarding Authority, as determined by the City Charter and/or the CVMC, may waive the DVBE and/or SBE requirement if it finds that enforcement of the DVBE and/or SBE requirement would preclude meaningful competition among vendors or that compliance will not be in the public interest.

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VI. Effective Date of Policy. This Policy shall go into effect thirty (30) calendar days following the adoption of the administrative guidelines by the City Council.