
CALIFORNIA HIGH-SPEED RAIL AUTHORITY

POLICY

POLI-SB-01

Approved By



Jeannie Jones
Chief Administrative Officer

5/6/2019
Date

TITLE: Small and Disadvantaged Business Enterprise Policy

POLICY

As a condition of federal financial assistance from the Federal Railroad Administration (FRA), the California High-Speed Rail Authority (Authority) has signed an assurance that it will implement the best practices of Title 49 Code of Federal Regulations (CFR), Part 26, "*U.S. Department of Transportation Disadvantaged Business Enterprise Program*." The Authority will also comply with Title VI of the Civil Rights Act of 1964 and related statutes on all activities to ensure Small and Disadvantaged Businesses have an equitable opportunity to participate in contracts funded in part or in whole with federal financial assistance.

The Authority has established a Small and Disadvantaged Business Enterprise Program, also known as the Small Business Program. This program is inclusive of Small Businesses (SB) and Disabled Veteran Business Enterprises (DVBE) which meet guidelines and certification criteria for the State of California, inclusive of a 3 percent DVBE participation goal, as well as 10 percent Disadvantaged Business Enterprises (DBE) goal which meets federal guidelines and certification eligibility criteria. These certification designations herein after will be referred to collectively as SBs.

The Authority's Chief Executive Officer (CEO) has lead responsibility for the development and implementation of the Authority's SB Program. The CEO will designate a SB Advocate who is responsible for managing the SB Program and implementing and ensuring compliance by all parties with respect to all components of the program.

PURPOSE

It is the policy of the Authority to ensure SBs, as defined by California Government Code Section 14837, California Military and Veteran Code Section 999, and 49 CPR Part 26, are afforded the opportunity to participate in the Authority's contracting program. The Authority strives to meet an overall 30 percent SB participation goal, representative of firms that reflect the diversity of California.

APPLICABILITY

This policy applies to all Authority employees (i.e., state staff) and to the Authority's integrated team, per contract-specific requirements (herein collectively referred to as "Authority Staff").

OBJECTIVES

The objectives of this policy encompass the following:

- Ensure the Authority complies with SB goals and that the SB Program is implemented in accordance with applicable state and federal laws and regulations;
- Ensure compliance with non-discrimination statutes, mandates, and regulations in the award and administration of all contracts; and
- Ensure subcontract solicitation and subcontract documents include the SB Program plan and goal requirements.

EXEMPTIONS (STATE FUNDED):

Per the Department of General Services (DGS) reporting guidelines for the State of California, the following contracts and procurements are excluded from reporting:

- Contracts or agreements with the federal government
- Any other state government
- Federal grants
- Contracts with the Prison Industry Authority
- Interagency Agreements
- Joint Powers Agreements
- Contracts or agreements with the California State University or the University of California or any of their respective campuses
- Concession contracts
- Revenue/reimbursement contracts
- Contracts or agreements with any county, city, school, or special district (commonly referred to as local agencies)
- Loans
- Local assistance/subvention agreements

- Court-ordered settlements or cost

OTHER AUTHORITY CONTRACTS

Contracts where the Authority has determined that goal attainment has proven to be difficult will be evaluated on a case by case basis. Procurement staff and contract managers will consult with the Authority's Small Business Advocate before excluding any goals from a contract.

A goal may be waived for the following reasons:

- Approval of a DVBE Waiver (State Contracting Manual Vol 3 4.B2.8)
- Approval of a SB Program Waiver
- Statutorily exempt
- Contracts excluded by the Authority from state reporting, such as:
 - Expert Witness Contracts
 - Third-party Utilities and Municipalities Contracts/Agreements
 - Other Railroads Contracts/Agreements
 - Legal Services Contracts

WAIVERS

A waiver will be submitted when a request is made to waive the program goal for any contract or procurement not included in the DGS or Authority excluded contracts. Waivers must be approved by the Authority's Small Business Advocate and the Contracts and Procurement Branch Chief. A clear demonstration of due diligence must be performed before any goal will be waived.

SB/DVBE REQUIREMENTS FOR PROCUREMENT AND CONTRACTING WITH STATE FUNDS

The Authority is committed to promoting small business and DVBE participation in its procurement and contracting processes. SBs will be provided opportunities to compete and participate in the Authority's contracting and procurement opportunities.

Pursuant to California Executive Order S-02-06 and California Executive Order D-43-01, the Authority will pursue an annual 25-percent certified Small Business and three-percent certified Disabled Veteran Business Enterprise (DVBE) participation level in departmental contracting/procurement.

Authority Staff responsible for purchasing and contracting are expected to make every effort to solicit bids from and make awards to SB and DVBE suppliers and contractors (Government Code Section 14836).

To facilitate participation, the Small Business Advocate will assist the Authority procurement and contract staff in identifying SBs and DVBEs that can provide required commodities or services.

TERMS AND DEFINITIONS

Term	Definition
Small and Disadvantaged Business Enterprise Program	A term referring inclusively to Small Business (SB), Disabled Veteran Business Enterprise (DVBE), and Disadvantaged Business Enterprise (DBE)
Small Business (SB)	Small Business- means an independently owned and operated business that is not dominant in its field of operation, the principal office of which is located in California. The officers of which are domiciled in California, and which, together with affiliates, has 100 or fewer employees, and average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three years, or is a manufacturer, as defined in Government Code 14837 subdivision (c), with 100 or fewer employees. Commencing January 1, 2019, the average annual gross receipts threshold shall be fifteen million dollars (\$15,000,000).
Disabled Veteran Business Enterprise (DVBE)	A small business owned and controlled by a veteran of the U.S. military, naval, or air service, who must have a service-connected disability of at least 10-percent or more, and must reside in California.
Disadvantaged Business Enterprise (DBE)	A small business owned and controlled by socially and economically disadvantaged individuals must receive DBE certification from the relevant state – generally through the state Uniform Certification Program (UCP). To be regarded as economically disadvantaged, an individual must have a personal net worth that does not exceed \$1.32 million. To be seen as a small business, a firm must meet SBA size criteria and have average annual gross receipts not to exceed \$23.98 million.
Procurement	Any purchase or contract for the Authority regardless of the acquisition method, payment method, or contract document used.

SOURCES OF AUTHORITY

The laws, regulations and direction for this policy are cited in the following:

- U.S. Department of Transportation 49 CFR Part 26
- Military and Veterans Code Section 999 et seq
- Government Code Section 14835-14837 et seq
- California Executive Order D-43-01
- California Executive Order S-02-06
- Federal financial assistance agreements until all funds are expended

RELATED FORM

HSRA-ADM-209, Small Business/Disadvantaged Business Enterprise Program Requirements Waiver

CONTACT

Contact the Authority's Small Business Program at sbadvocate@hsr.ca.gov.