

Disabled Veteran Business Enterprise Program:

*Few Departments That Award Contracts
Have Met the Potentially Unreasonable
Participation Goal, and Weak
Implementation of the Program Further
Hampers Success*



July 2002
2001-127

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July 3, 2002

2001-127

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the Bureau of State Audits presents its audit report concerning the extent to which awarding departments are meeting the goals set for the Disabled Veteran Business Enterprise (DVBE) program.

This report concludes that many awarding departments do not report DVBE participation to the Department of General Services as required by statute. Of those that do report, most do not meet the 3 percent participation goal established under the DVBE program. Additionally, the methodology for reporting DVBE participation levels is flawed. The reasonableness of the 3 percent goal itself is uncertain, and a thorough study of the businesses owned by disabled veterans is needed to determine an appropriate goal. Additional factors also impede the State's ability to meet the 3 percent goal. Awarding departments have great flexibility in implementing the program, leading to inconsistent and weak implementation. Some awarding departments exempt a significant number of contracts, do not scrutinize good-faith effort documentation that bidders submit as a substitute for subcontracting with DVBEs, and do not take steps to ensure DVBEs are used according to contract specifications.

Respectfully submitted,

ELAINE M. HOWLE
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SUMMARY

Audit Highlights . . .

Our review of the Disabled Veteran Business Enterprise (DVBE) program found that:

- Many awarding departments do not report their DVBE participation levels; of those that do report, most do not meet the 3 percent participation goal.*
- The reasonableness of the 3 percent goal itself is not clear.*
- Outreach to potential DVBEs should be more aggressive.*

Other factors that contribute to the State's failure to meet the DVBE goal are:

- The program's overly flexible legal structure and limited clarifying regulations.*
 - The frequency with which certain departments exercise their discretion to exempt contracts from DVBE participation.*
 - Lack of effective evaluation of bidders' good-faith efforts and monitoring of contractors' compliance with contract DVBE requirements.*
-

RESULTS IN BRIEF

Established in 1989, the Disabled Veteran Business Enterprise (DVBE) program is intended to ensure that disabled veteran business owners have an opportunity for full participation in the State's economy. This opportunity is provided through a statutory requirement placed on departments that award contracts (awarding departments) to expend not less than 3 percent of their contract dollars on qualified veteran-owned businesses during the fiscal year. Thirteen years after the establishment of the program, the State continues to struggle with attaining 3 percent DVBE participation in its contracting. For fiscal year 1999–2000, only 9 (13.6 percent) of 66 awarding departments met or exceeded the 3 percent goal, and an additional 79 such departments failed to report their DVBE participation levels as required by law. The State's overall reported participation rate was 1.6 percent. Statistics for fiscal year 2000–01 showed only modest improvement, with a reported participation rate of 1.8 percent and 40 awarding departments not reporting.

The reasonableness of the 3 percent participation goal is not clear in light of the limited number of DVBEs and the lack of a thorough study examining eligible businesses and their ability to meet the State's needs. In their improvement plans for fiscal year 1999–2000, many awarding departments suggested that the 3 percent goal is unrealistic unless DVBEs are able to provide the requested services in the locations they are needed. Until such an analysis comparing DVBE services to the State's needs is completed, the reasonableness of the 3 percent goal will remain in doubt.

The fact that so many awarding departments fail to meet the 3 percent goal suggests that the goal itself may be unreasonable. All five agencies responding to our survey and many departmental DVBE improvement plans identified a limited pool of certified DVBEs as one of the impediments to meeting the goal. As of May 8, 2002, the Department of General Services (General Services) had certified only 797 DVBEs, yet we estimate 11,000 DVBEs may be eligible statewide.

The DVBEs themselves offered a wide range of reactions to the DVBE program's administration and effectiveness. We completed telephone surveys with 54 current and former DVBEs throughout the State, asking their opinions about their experiences with two main areas—the certification process and their actual contracting experiences through the program. The DVBEs were generally pleased with General Services' certification process, with over half (30 of 54 respondents) saying their experience was either positive or very positive. Several DVBEs applauded the recent improvements to simplify the certification process. Opinions about contracting were still weighted toward the positive. However, fully one-third of the respondents had no actual contract experience either as a prime or subcontractor through the program. The extent of respondents without program contracting experience appears to be a negative reflection on the program's effectiveness.

General Services needs to be more aggressive in its efforts to increase the certified DVBE pool through outreach activities that target the veteran community. It has not finalized a joint outreach plan with the Department of Veterans Affairs (Veterans Affairs) to increase the number of certified DVBEs, nor does it consistently monitor the effectiveness of its outreach efforts in increasing the certified DVBE pool.

The chance for a successful DVBE program is further weakened by its flexible legal structure. Although General Services has issued some limited clarifying regulations and guidelines, the awarding departments themselves have the option of developing their own regulations and policies. Furthermore, certain agencies are only now beginning to take steps to monitor the extent of DVBE participation at each of their subordinate departments.

Another major reason why the State is failing to meet its DVBE goal is the practice of awarding departments to exempt at their discretion a significant number of contracts from the DVBE requirements. When these exemptions occur, awarding departments are failing to require increased participation on the remaining contracts so as to ensure they meet the 3 percent goal. For example, the procurement unit within General Services estimated that it exempted more than 50 percent of its DVBE-eligible contracts in fiscal year 2000–01, and the Department of Health Services exempted 48 percent. Because of these exemptions, each would have had to assign about 6 percent of its remaining contract dollars to certified DVBEs in order to achieve the goal.

By frequently documenting their good-faith effort search to find a DVBE, instead of actually using one, winning bidders also contribute to the State's inability to attain the 3 percent goal. The law allows bidders to attempt in good faith to find and use a certified DVBE subcontractor and to document that effort. However, this effort negatively affects DVBE participation on a contract because a winning bidder's good-faith effort search, if approved by the awarding department, substitutes for actual DVBE participation. The prevalence of winning bidders documenting their good-faith effort search appears to be significant. In fiscal year 2000–01, 70 percent of the contracts assigned by the Department of Transportation's (Caltrans) contracts unit had DVBE requirements satisfied by winning bidders documenting a good-faith effort search, rather than actually hiring DVBEs. Further, awarding departments do not consistently evaluate bidders' good-faith efforts. Currently, bidders have a financial incentive to use the good-faith effort rather than use a DVBE as a subcontractor.

Finally, the methodology for reporting DVBE participation levels is flawed. General Services requires contract-awarding departments to report their DVBE participation levels based on the amounts contractors agreed to expend on DVBEs, instead of how much the contractors actually expended. Also, at the five awarding departments in our sample and their related units that we visited, we noted differences in the policies and practices regarding the monitoring of actual DVBE participation. For example, Caltrans' procurement and contracts division had particularly thorough procedures to monitor actual DVBE participation, but in our review of this division's contracts, we found that these policies were not consistently followed. Ultimately, awarding departments that fail to monitor actual DVBE participation cannot ensure that the winning bidder is complying with the requirements of the DVBE program.

RECOMMENDATIONS

To ensure DVBE statistics are accurate and meaningful, General Services should require awarding departments to report actual DVBE participation and maintain appropriate documentation of these statistics, continue its periodic audits of these figures for accuracy, and, if the audits reveal a pattern of inconsistencies or inaccuracies, address the causes in its reporting instructions.

To determine if the 3 percent DVBE goal is reasonable, the Legislature may wish to consider requiring either General Services or Veterans Affairs to commission a study on the potential number of DVBE-eligible firms in the State, the services they provide, and their geographic distribution, and compare this information to the State's contracting needs.

Based on the results of this study, the Legislature may wish to consider doing the following:

- Modify the current DVBE participation goal.
- Allow General Services to negotiate department-specific goals based on individual contracting needs and the ability of the current or potential DVBE pool to satisfy those needs.

To ensure that the DVBE program is promoted to the fullest extent possible, General Services should aggressively explore outreach opportunities with the U.S. Department of Veterans Affairs and organizations such as the American Legion, Disabled American Veterans, and Veterans of Foreign Wars.

To ensure that prime contractors make a genuine good-faith effort to find a DVBE, the Legislature should consider making General Services' DVBE regulations binding on awarding departments. In turn, General Services should issue regulations on what documentation awarding departments should require for the good-faith effort and how awarding departments should evaluate that documentation. Similarly, General Services should issue regulations on what steps departments should take to ensure contractors meet DVBE program requirements. These steps might include requiring awarding departments to monitor vendor invoices that detail DVBE participation or requiring the vendor and DVBE to submit a joint DVBE utilization report.

To increase the efficiency and effectiveness of the DVBE program, the Legislature should consider doing the following:

- Replace the current step requiring bidders to contact the federal government with a step directing bidders to contact General Services for a list of certified DVBEs.
- Enact a contracting preference for DVBEs similar to the one for the small business program—that is, allowing an artificial downward adjustment to the bids of contractors who plan to use a DVBE, thus making these bids more competitive.

- Require awarding departments to go through their own good-faith effort search in seeking DVBE contractors.
- Provide awarding departments with the authority to withhold a portion of the payments due to contractors when they fail to use DVBEs to the extent specified in their contracts.

AGENCY COMMENTS

The responding departments and agencies generally agree with the audit findings and plan to address the recommendations of this audit report. The Resources Agency and the Department of Fish and Game elected not to respond to our audit report. ■

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INTRODUCTION

BACKGROUND

Established in 1989, the Disabled Veteran Business Enterprise (DVBE) program sets a goal for most awarding departments to expend not less than 3 percent of their overall contract dollars on DVBEs certified by the Department of General Services (General Services). Departments that award contracts (awarding departments) may meet this goal by either contracting directly with certified DVBE firms or requiring winning bidders to use them as subcontractors. With the establishment of the 3 percent goal, the Legislature sought to ensure that disabled veteran business owners had an opportunity for full participation in the State's economy while at the same time addressing previous social inequalities and fostering increased competition in the marketplace.

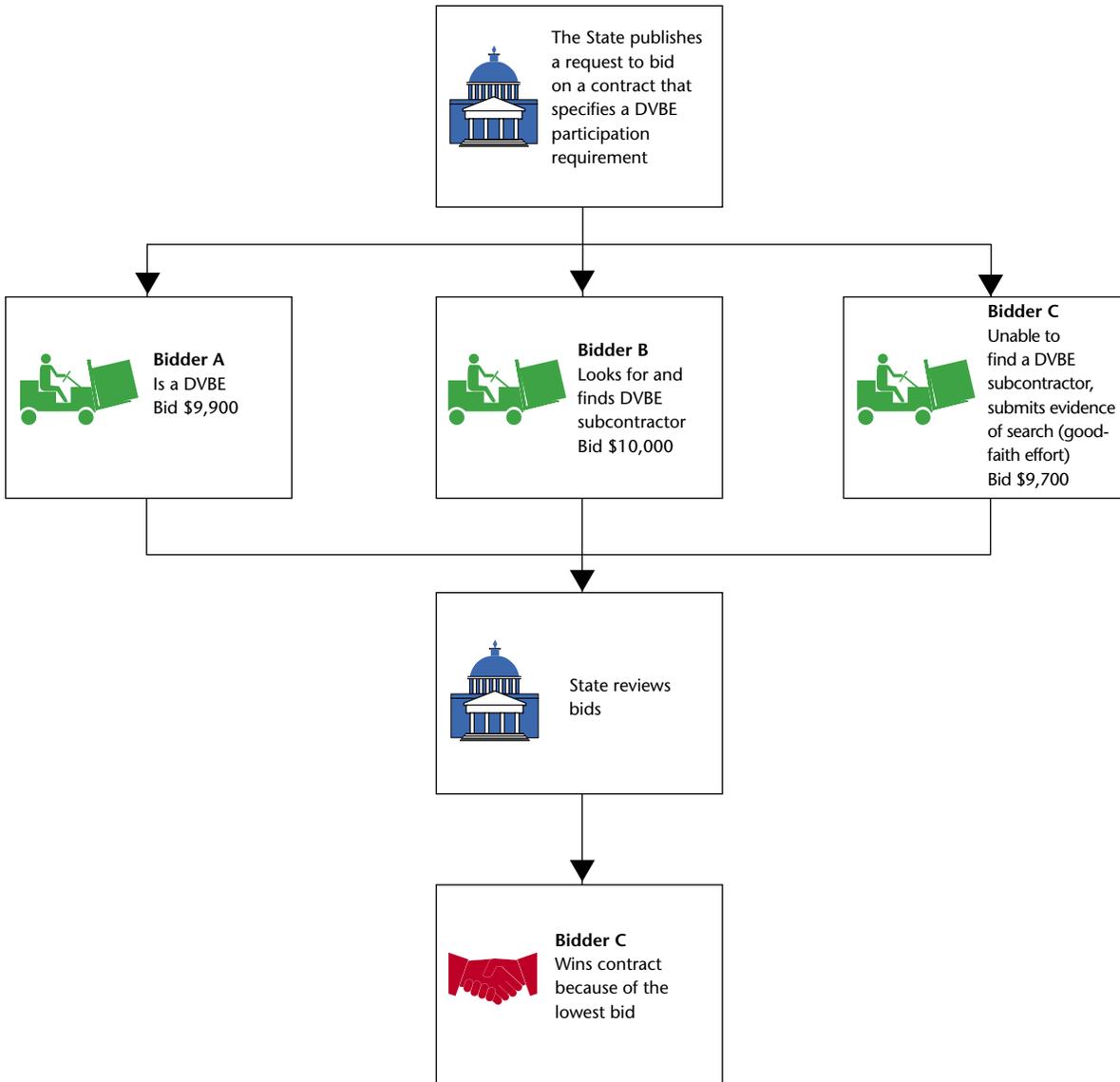
The Public Contract Code, Section 10115(c), establishes the 3 percent DVBE participation goal for various contracts. Since the goal applies to an awarding department's overall contract expenditures each year, the awarding department has the discretion to decide whether or not the DVBE requirements will apply on a contract-by-contract basis. It may exempt some eligible contracts from the DVBE requirements while establishing goals in excess of 3 percent on others. Additionally, when these departments do establish DVBE participation requirements on a contract, they may still award the contract to a bidder who does not intend to use a DVBE. Under state law, a bidder can satisfy a contract's DVBE participation requirements by demonstrating a good-faith effort to find and use a DVBE. Bidders submit documentation of their good-faith effort to the awarding department, which in turn ultimately decides in its sole discretion if a good-faith effort was made. Bidders may provide listings of the DVBEs they solicited and considered for participation on the contract, along with the business reasons why a DVBE could not be used.

State regulations dictate that certain contracts cannot be subject to DVBE requirements. These contracts include subvention funding, local aid contracts, and agreements with other government entities. Although the dollar value of these contracts may be significant at certain awarding departments,

it does not have an impact on their ability to attain 3 percent DVBE participation. This is the case since each awarding department's performance is based on the value of the DVBE-eligible contracts. Nevertheless, many contracts are eligible for DVBE participation.

FIGURE 1

State Contracting and DVBEs



DVBE REQUIREMENTS AND THE STATE'S CONTRACTING PROCESS

The flowchart on page 8 depicts how the DVBE participation requirements for a given contract might not result in DVBE participation.

Figure 1 shows how three different bidders could satisfy the DVBE participation requirements of a contract during the bidding process. Bidders who reply to a request and who are not

DVBEs themselves must satisfy the requirement by either specifying the use of a DVBE subcontractor in their bids or providing evidence that they conducted a search to use a DVBE subcontractor. In the figure, bidder A is a DVBE, bidder B secures a DVBE subcontractor, and bidder C submits evidence of the good-faith effort search. If the State is satisfied with the quality of bidder C's good-faith effort search, bidder C will win the contract as the lowest bidder. This scenario results in no DVBE participation on the contract even though the bidding requirements of the DVBE program have been satisfied.

Qualifications for DVBE Status

- A disabled veteran means a veteran of the military, naval, or air service of the United States with a service-connected disability of at least 10 percent, and who is also a resident of California.
- 51 percent of the firm is owned by one or more disabled veterans.
- The management and control of the daily business operations are by one or more disabled veterans.
- The home office of the firm is located in the United States and is not a subsidiary of a foreign firm.

QUALIFICATIONS FOR DVBE STATUS

Firms seeking DVBE status must meet the qualifications listed under the Military and Veterans Code, Section 999(g). In addition, applicant firms must provide a completed application along with supporting documents to General Services, which ensures that the applicants meet all the conditions for DVBE certification. If an applicant firm's qualifications for DVBE status are in order, General Services will issue it an approval letter. Although state law does not specify the length of certification, General Services indicates it typically extends DVBE status to qualified firms initially for one year, and renewals can last as long as five years.

GENERAL SERVICES' ROLE AS THE ADMINISTERING DEPARTMENT FOR THE DVBE PROGRAM

In fulfilling its role as the administering department for the DVBE program, General Services performs various important functions. One such function is the certification of qualified firms as DVBEs. General Services receives all applications,

reviews submitted documentation, and ultimately assesses the quality of the documentation to determine each applicant firm's status.

Other functions General Services has within the DVBE program involve providing technical assistance to awarding departments on how to properly follow and implement the DVBE requirements, reporting DVBE participation rates, and conducting promotional and outreach efforts to increase the number of certified DVBE firms.

AWARDING DEPARTMENTS' RESPONSIBILITIES IN THE DVBE PROGRAM

DVBE statutes provide awarding departments the discretion to determine how to implement and enforce the DVBE program. For the purposes of this report, we use the term "awarding department" to include any state agency, department, governmental entity, or other officer or entity empowered by law to enter into contracts on behalf of the State of California. Awarding departments are responsible for establishing their own policies and procedures to ensure their adherence to the 3 percent participation goal. For example, they decide which contracts will have a DVBE goal. They also have sole discretion to determine if bidders made a good-faith effort to find and use a DVBE when contracts called for such participation. The extent to which bidders must prove they made a good-faith effort and the amount of scrutiny placed on the documentation of such efforts are left to the discretion of awarding departments.

Once it has established a 3 percent goal and awarded a contract to a vendor who agrees to use the services of a DVBE, an awarding department is also responsible for monitoring the vendor's compliance with the contract's provisions. When a vendor violates the DVBE requirements, the awarding department is required to report the violation to General Services.

By January 1 of each year, every awarding department is required to report its DVBE participation level to the governor, the Legislature, General Services, and the Department of Veterans Affairs (Veterans Affairs). Those awarding departments failing to reach 3 percent participation on their eligible contracts are also required to develop and submit an improvement plan to the same entities. The DVBE improvement plan outlines an awarding department's explanations for not meeting the

3 percent goal and describes remedial steps to increase DVBE participation. General Services is required to publish this statewide summary report on the DVBE program by April 1 each year.

RECENT LEGISLATION AND ADMINISTRATIVE ACTIONS AFFECTING THE DVBE PROGRAM

Within the last year, several significant legislative and related developments have taken place that will likely impact the DVBE program. All of these events appear to have been aimed at increasing awareness of the program and promoting actual progress toward meeting the 3 percent goal.

In June 2001, the governor issued an executive order requiring, for the first time, that state agencies review the DVBE participation rates of the awarding departments under their authority. It also requires agencies to review the improvement plans of their awarding departments that did not meet the goal. Part of the executive order restates existing DVBE requirements, but it also requires General Services and Veterans Affairs to review the DVBE program and then make recommendations on how the program can be improved. The executive order does not specify a due date for these recommendations, and none was submitted as of May 2002.

In addition, several laws went into effect on January 1, 2002, that were aimed at increasing DVBE participation in state contracting. These laws included the following provisions:

- A requirement for all awarding departments to have in-house advocates to promote and clarify DVBE policies from within. The role of these advocates is to help internal contracting staff find DVBEs, as well as to help DVBEs understand the specific entity's contracting process.
- A requirement that Veterans Affairs appoint a statewide advocate to help promote the program while coordinating and disseminating best practices information to department and agency-level DVBE advocates.
- An incentive of a streamlined contracting process for awarding departments that use DVBEs. Under this legislation, an awarding department can award a contract greater than \$5,000 and less than \$100,000 (\$200,000 for

construction contracts) without complying with the State's normal competitive-bidding requirements as long as it awards the contract to a DVBE and obtains price quotations from two or more certified DVBEs. It must revert to the competitive bid process if it chooses not to use a DVBE. This law has the potential to reduce the paperwork involved in state contracting when a DVBE is used.

Because these laws went into effect so recently, it is too early to determine what impact, if any, they will have on DVBE participation in state contracting.

SCOPE AND METHODOLOGY

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits determine the extent to which awarding departments are meeting the 3 percent DVBE participation goal and identify statutory or procedural mechanisms that could assist in overcoming any barriers to fulfilling this goal. We were also asked to assess the need for an improved statewide mechanism by which compliance with the program's requirements could be centrally monitored. Additionally, the audit committee asked us to determine whether the methodology used to establish the 3 percent goal is still reasonable. Finally, we were asked to review General Services' role in the program and examine the process by which a firm may qualify as a DVBE.

We reviewed the laws, regulations, and selected awarding departments' policies regarding the implementation of the DVBE program. Based on our review of the laws, we identified the areas of responsibility for General Services and awarding departments in general. Our review of the laws also included the various analyses of the DVBE enabling legislation in 1989. We clarified our understanding of General Services' outreach and certification processes through interviews and through documentary evidence of these processes in practice. Our review of the certification process did not include determining whether DVBEs, certified by General Services, met program requirements.

We used General Services' statewide DVBE statistical summary for fiscal year 1999–2000 to identify the extent to which awarding departments met the 3 percent participation goal. We also reviewed reporting methodologies, when information was

available, and overall implementation of the DVBE program at five awarding departments to determine if they were consistent and accurate.

To select awarding departments to visit, we ranked all those reporting DVBE statistics for fiscal year 1999–2000 by contract dollars expended. We then purposely selected 3 awarding departments within the top 10 that did not meet the goal. These awarding departments were General Services, the Department of Transportation, and the Department of Health Services. Our review of General Services covered 4 of its 13 units that had significant contracting activity for this period. We selected 2 additional awarding departments that reported they had met or exceeded the goal—the Department of Fish and Game and the Board of Equalization.

To understand why so many awarding departments fail to achieve the 3 percent goal, we obtained DVBE improvement plans for 39 awarding departments and documented their explanations for not achieving the goal. We were able to obtain these plans only by surveying the agencies having jurisdiction. We found no single repository that retained copies of all improvement plans.

We conducted surveys of 5 of the larger state agencies and 54 current or former DVBEs to gather their perspectives about the program. We also inquired how agencies monitor the DVBE participation levels of their respective awarding departments. Further, we selected a total of 88 contracts with DVBE requirements to identify and evaluate any potential procedural or statutory barriers. We reviewed the extent to which compliance was monitored by the awarding department.

Finally, we attempted to determine the methodology used to justify the 3 percent DVBE participation goal by reviewing committee documents and bill analyses for the program’s enabling legislation. We also attempted to determine the reasonableness of the goal. Finally, we completed an analytical review to roughly estimate the number of potential DVBEs in the State, using data from the federal government. ■

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CHAPTER 1

Most Awarding Departments Have Not Achieved the DVBE Participation Goal, Bringing Into Question Its Reasonableness

CHAPTER SUMMARY

Most departments that award contracts (awarding departments) either report they have failed to achieve the statutory goal of the Disabled Veteran Business Enterprise (DVBE) program, which is to pay 3 percent of their contract dollars to DVBEs, or they simply do not report these statistics at all. As a result, the State's overall reported DVBE rate was 1.6 percent in fiscal year 1999–2000, well below the goal. However, even these limited statistics are not fully reliable because the awarding departments we reviewed reported their statistics using different, and at times inappropriate, methodologies.

Despite inconsistent reporting methodologies, it is apparent that most awarding departments do not meet the 3 percent goal. The extent of the noncompliance brings into question the reasonableness of the goal itself. We found no evidence that an analysis exists to demonstrate that the pool of potential DVBEs is large enough to allow awarding departments to attain such a participation rate. In fact, during the drafting of the DVBE legislation in 1989, several awarding departments raised concerns about the limited number of DVBEs. As of May 8, 2002, the Department of General Services (General Services) listed only 797 certified DVBE firms. In addition, the nature of the services these DVBEs offer and their geographic locations may not be a good match for the State's needs, making the 3 percent participation goal even more difficult to achieve. Without a clearer understanding of the potential pool of eligible DVBE businesses, the State cannot be certain that it has established a reasonable goal for participation. Our own analysis provides conflicting information on how many firms in the State can be certified. Despite this uncertainty regarding the potential pool of DVBEs, General Services can be more aggressive in its outreach efforts by specifically targeting veterans.

LESS THAN HALF OF THE AWARDING DEPARTMENTS SUBMITTED REPORTS

State law requires awarding departments to submit their DVBE participation statistics to General Services, which then issues a summary report. However, for fiscal year 1999–2000, General Services reported that 79 (54.5 percent) of the 145 awarding departments failed to comply with the law. Of the 66 that did report DVBE statistics, only 9 (13.6 percent) met or exceeded the 3 percent goal, and the overall participation rate was 1.6 percent (\$71.2 million of \$4.5 billion in contracts). The recently published statistics for fiscal year 2000–01 show modest improvement, a 1.8 percent overall reported participation rate. During this year, 18 awarding departments met the goal while the number reporting DVBE participation data increased to 97.

For fiscal year 1999–2000, General Services reported that 79 (54.5 percent) of the 145 awarding departments failed to report their DVBE participation data.

Some awarding departments may not be reporting DVBE statistics because until recently they have not placed significant emphasis on the program and there have been no consequences for failure to provide this information. Both agencies and the awarding departments they oversee are subject to the DVBE participation goal, but the governor's executive order issued in June 2001 gives agencies additional responsibility to review participation levels achieved by the awarding departments under them. Three of the five state agencies responding to our survey indicated that they were still developing procedures to monitor the DVBE participation levels of their subordinate awarding departments. The Business, Transportation and Housing Agency has indicated to us that it monitored its awarding departments' compliance with DVBE requirements both before and after the governor issued his executive order. This order reaffirms the State's commitment to the DVBE program and requires state agencies that oversee awarding departments to monitor participation rates. The State and Consumer Services Agency has recently increased the emphasis it places on meeting the DVBE goal by stressing its importance with subordinate departments and implementing monitoring procedures to track their performance.

SUBMITTED DATA MAY NOT ALWAYS BE RELIABLE

In August 2000, General Services, responsible for administering the DVBE program, began taking steps to ensure that awarding departments report accurate participation rates. According to its chief of audit services, as of March 7, 2002, General Services had completed reviews of the accuracy of reported DVBE data at

For fiscal year 2000–01, the Department of Fish and Game reported \$12.1 million in DVBE participation but could identify only \$431,000 in specific contracts, or less than 3 percent of the total reported.

six awarding departments. General Services took exception with one awarding department for failing to submit reports and noted significant inaccuracies in the report of another. General Services noted no exceptions with the other four awarding departments.

Our own review showed that some awarding departments could not always provide supporting documentation for statistics, further calling into question their reliability. For example, for fiscal year 2000–01, the Department of Fish and Game (Fish and Game) reported \$12.1 million in DVBE participation but could identify only \$431,000 in specific contracts, or less than 3.6 percent of the total. Fish and Game is currently in the process of revising its DVBE participation statistics and reassessing its procedures for compiling this data. In addition, the Department of Health Services (Health Services) could not provide any summarized documentation for the numbers it reported. Health Services asserted that it had documentation in individual contract files to support its reported figures, but indicated it would be too time intensive to tally the information for our review.

General Services believes, and we concur, that maintaining supporting documentation is an important element of an effective system of internal control that each department must have. Keeping records of reporting methodology and source documents would assist both Fish and Game and Health Services when they prepare reports in subsequent years.

Additional problems with the accuracy of DVBE participation information exist. The reporting methodology General Services established is contrary to statutory requirements. According to statute, the participation goal is based on the overall dollar amount “expended,” or paid, to DVBEs each year by the awarding department. However, under current reporting regulations issued by General Services, awarding departments must report the amount winning bidders “claim” they will pay to DVBEs under the contract. In its clarifying instructions, General Services has asked awarding departments to report amounts “awarded” in contracts. The award amount, according to General Services, is the maximum amount to be paid when all the contract terms have been met, not the actual expenditure. General Services is aware of our concern, agrees with the distinction we make between “expended” versus “awarded” dollars, and is currently reviewing the DVBE participation reporting methodology.

Of the four units we reviewed at General Services, one reported actual dollars paid to DVBEs and the remaining three reported amounts awarded in their contracts.

Different awarding departments have apparently interpreted these instructions in different ways, resulting in inconsistency in information reported among awarding departments and even among units within awarding departments. For example, of the four units we reviewed at General Services, one reported actual dollars paid to DVBEs and the remaining three reported amounts awarded in contracts. The problem might not be significant if contractors were required to pay DVBEs what they agree to in contracts, but because some awarding departments do not actively monitor adherence to these provisions, as discussed in Chapter 2, the problem could be much larger. Reporting actual amounts expended may introduce fluctuations in what awarding departments report because amounts awarded in one year may be paid in subsequent years. Nevertheless, we believe reporting actual payments provides the more useful information because it focuses on the realized benefit to DVBEs.

General Services believes that requiring awarding departments to track actual expenditures to DVBEs would not be feasible. In fact, according to General Services' consultant, "most departmental accounting systems are not designed to capture information about subcontractors. Generally, the systems are designed to process and account for payments made to prime contractors only. Additionally, the volume of transactions that would need to be captured and compiled could be an order-of-magnitude greater than is the case with a contract-award-based process." General Services' consultant further asserts that the cost to the State to modify existing accounting systems would "probably be enormous." However, we do not believe it would be necessary to overhaul awarding departments' accounting systems. Instead, we believe awarding departments could keep a running total of DVBE participation noted on detailed vendor invoices.

Additional differences in reporting methodologies derive from General Services' lack of clear guidance in the past. Until March 2001, General Services provided a brief outline of reporting requirements that omitted important information. For example, the instructions did not mention whether awarding departments should report contracts with the University of California, the California State University, or other state awarding departments. Consequently, the Office of Risk and Insurance Management at General Services reported contracts with the California State University for fiscal year 2000–01 when it should not have.

General Services' revised instructions are clearer and more extensive, addressing both interagency agreements and contracts with the California State University and the University of California.

Despite the imprecision of reported DVBE statistics, it is clear most awarding departments do not meet the 3 percent goal.

Not all inconsistencies or errors in reporting DVBE information result from unclear instructions. For example, four departmental improvement plans that we reviewed indicated that they did not even have procedures in place to capture accurate participation data. Further, notwithstanding instructions to the contrary, the Office of State Publishing, which is a unit in General Services, includes ineligible contracts, such as interagency agreements and contracts with the Prison Industry Authority, in its contract totals. By inflating the total value of the contracts that could have had DVBE participation, it understates its participation rate. The Office of State Publishing compounded the understatement by failing to report any DVBE participation. One of the five contracts we reviewed for fiscal year 2000–01 had DVBE participation totaling \$12,000.

Despite the imprecision of the reported DVBE statistics, it is clear that most awarding departments do not meet the 3 percent goal. The pervasiveness of the noncompliance raises questions about the reasonableness of the goal itself.

THE BASIS FOR THE 3 PERCENT DVBE PARTICIPATION GOAL IS UNCLEAR

Even though the law establishes a 3 percent DVBE participation goal, we have not found sufficient evidence to support the assumption that this is an equitable share of contracts for DVBEs. An early draft of the enabling legislation for the DVBE program included a statewide participation goal of 5 percent and required that one or more disabled veterans own the entire business to qualify it as a DVBE.

When this proposed legislation was being debated in 1989, several awarding departments questioned the reasonableness and equity of a 5 percent participation goal. For example, the Department of Finance (Finance) stated that “the bill presumes that 5 percent of total state purchases is an equitable share for disabled veterans’ businesses; however, information has not been presented to support this level.” To address these concerns, the final legislation was amended to reflect a 3 percent DVBE

participation goal. Subsequent legislation ultimately reduced the ownership requirement for disabled veterans to 51 percent in an attempt to increase the number of DVBEs that could be certified.

Several awarding departments opposed the proposed DVBE legislation in 1989, arguing that the goal was unrealistic.

Despite the reduced expectations, several awarding departments still opposed the bill on the grounds that the goal remained unrealistic. The governor, the California Department of Veterans Affairs (Veterans Affairs), Franchise Tax Board, General Services, Finance, and Department of Transportation (Caltrans) all raised this concern about the enabling bill in its final form. For example, General Services argued that the marketplace could not support the goal without adversely affecting other contractors. General Services further indicated that substantially more women business enterprises (with a participation goal of 5 percent) existed than DVBEs and that a participation goal as high as 3 percent did not appear equitable or realistic for DVBEs. In addition, General Services indicated that awarding departments could not be expected to meet goals in industries and geographic regions where DVBEs are underrepresented. Even a veterans group that supported the DVBE legislation noted the lack of statistical evidence to justify a 3 percent goal because state agencies did not record how often disabled veterans attempted to participate in state contracting.

THE LIMITED NUMBER OF CERTIFIED DVBEs OFFERING NEEDED SERVICES CLOSE TO WORKSITES MAY IMPAIR MEETING THE 3 PERCENT GOAL

The awarding departments' concern about enough DVBEs to justify the 3 percent goal seems to have been valid. All five agencies responding to our survey and many awarding departments' DVBE improvement plans identified a limited pool of DVBEs as one of the impediments to meeting the 3 percent participation goal.

As of May 8, 2002, General Services had 797 DVBEs certified and available for contracting. Its success in substantially increasing the DVBE pool has been limited historically. Since fiscal year 1993–94, the number of certified DVBEs has ranged from 538 to 797, as Figure 2 indicates. General Services has had more success recently, adding 147 firms to the certified DVBE pool between January and May 2002. Its staff attributed this recent success primarily to its outreach and education units' efforts, but believes many other factors contributed to the increase. These factors include the governor's executive order, the shortened

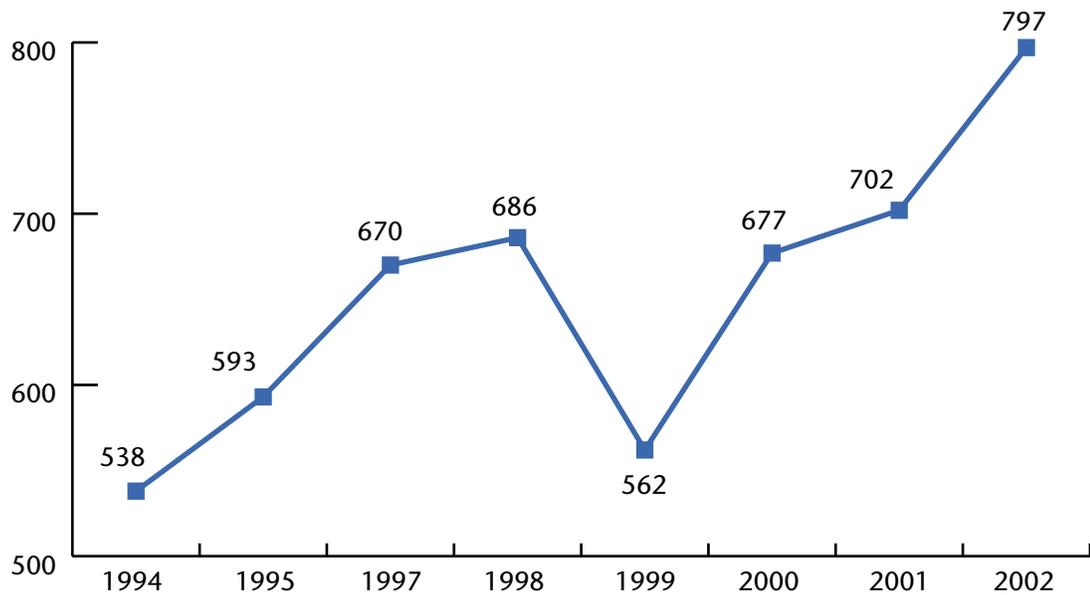
application form, a new on-line application for certification, creation of and continued involvement in the DVBE Council by General Services, the automated renewal process implemented in 2001, state agency outreach efforts, and the downturn in the economy.

The information in Figure 2 must be viewed with caution. The numbers are based on information reported in Health Services' annual improvement plans. These were the only plans we reviewed for the period that consistently noted the number of certified DVBEs during a given year. Lacking records of its own, General Services reviewed the numbers Health Services reported and believes they are "reasonable." Regardless of the exact numbers of DVBEs, in their improvement plans for fiscal year 1999–2000 many awarding departments cited the limited pool of DVBEs as a major reason why they were unable to meet the 3 percent goal.

In addition to the low number of available DVBEs, awarding departments also cite the mismatch between services they need and services DVBEs offer as a factor that adversely affects

FIGURE 2

Growth of Certified DVBEs From 1994 Through 2002



Sources: Department of Health Services' DVBE Improvement Plans and Department of General Services' DVBE reports.

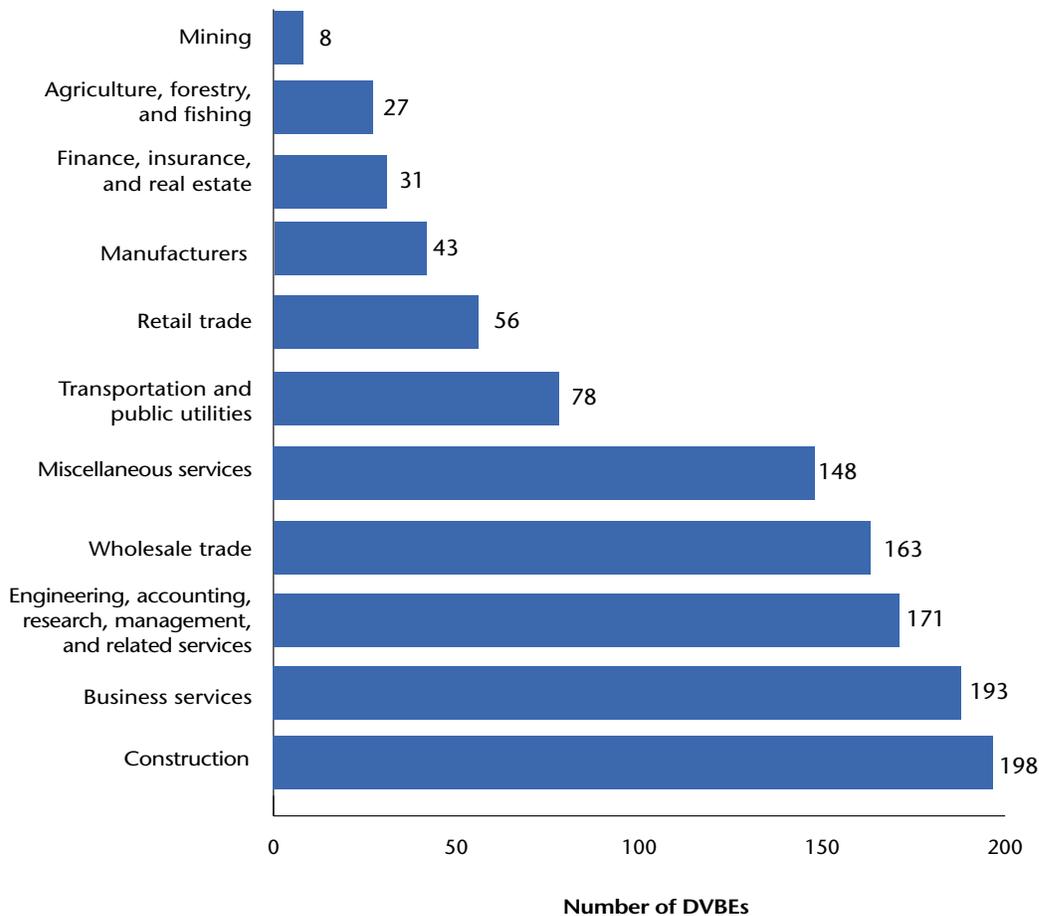
Note: Data for 1996 was unavailable from the improvement plans that we obtained. Also, the number of certified DVBEs fluctuates between the data points since the data provided are based on various points of time within each year.

their ability to attain the 3 percent participation goal. Of the 39 department improvement plans that we reviewed for fiscal year 1999–2000, 23 indicated that they were unable to meet the 3 percent goal because of a mismatch between the services DVBEs offered and their own contracting needs.

However, many DVBEs appear to offer necessary services. As Figure 3 indicates, General Services shows concentrations of DVBEs in construction, engineering, business services, and wholesale trade involving a variety of products including computer equipment. Many of the contracts we reviewed required services that fell under the general heading “construction.” However, General Services’ listing is not always detailed enough to determine whether a DVBE could meet a specialized need. For example, a firm might be listed under

FIGURE 3

DVBEs by Business Type as of January 2002



Source: Department of General Services’ DVBE database, sorted by Standard Industrial Certification (SIC) code.

Note: Some DVBEs provide more than one service and are included in more than one category.

“offices and clinics of doctors of medicine,” but the list might not indicate whether the firm specializes in radiology, which a department such as Health Services might need. In August 2001, General Services modified its listing, making more detail available. DVBEs themselves now can enhance the amount of information included in the listing’s description of their businesses. Nevertheless, to assess the validity of the awarding departments’ concerns, a comprehensive study is needed to investigate how well the services that current and potential DVBEs offer match the State’s overall contracting needs.

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Such a study may also yield valuable insight on the level of compatibility between the geographic areas DVBEs can serve and the locations in which their services are needed. Of the 39 improvement plans we reviewed, 5 expressed concern that DVBEs cannot provide service due to geographic considerations. This concern may have merit, at least for services that require contractors to be on site. High concentrations of certified DVBEs are found in the areas around Los Angeles, Orange, San Francisco, San Diego, San Bernardino, Riverside, and Sacramento counties, whereas the concentration of state offices is in Sacramento. Figure 4 on the following page illustrates the geographic distribution of certified DVBEs. Although some contracts require services in Southern California and some may not have to be on site, the concentration of DVBEs in Southern California may not match the State’s overall needs.

The expertise and volume of services or products DVBEs are able to supply may also affect a department’s ability to contract with them. In their improvement plans for fiscal year 1999–2000, two major pension fund departments and the Franchise Tax Board indicated they needed the technical expertise that only large firms can supply. As of May 2002, more than 55 percent of certified DVBEs were also certified small businesses, which by definition had average annual gross receipts of \$10 million or less over the prior three years. The Real Estate Services Division at General Services also raised concerns about the capacity of smaller businesses to fill larger contracts, particularly construction contracts, which require the firms to post bonds. On the other hand, Caltrans reported 3.6 percent DVBE participation in construction projects for fiscal year 2000–01.

FIGURE 4

Certified DVBEs by Service Area as of January 2002



Source: Department of General Services' DVBE database, sorted by service areas.

Note: Some DVBEs provide services to multiple service areas and are included in more than one category.

Despite a lack of data on contract needs, we believe more certified DVBEs are needed to make the 3 percent participation goal realistic, especially considering concerns over the limited scope of services and geographic proximity.

FEDERAL DATA PROVIDES A MIXED PICTURE ON HOW MANY POTENTIAL DVBEs ARE IN CALIFORNIA

The federal government, which has its own 3 percent participation goal for DVBEs, appears to have had even less success in contracting with DVBEs in California than the State has. The federal program, established in 1999, is newer than the State's, and its immaturity may be reflected in the numbers it reports; however, its lack of success is not encouraging for those seeking additional DVBEs for the State's program. Based on data provided by the Federal Procurement Data Center, we calculated the national participation rate at 0.24 percent and the federal participation rate in California at 0.12 percent for the federal fiscal year ending September 30, 2001. This compares unfavorably with the overall reported 1.6 percent DVBE participation rate in state contracts for the 66 reporting awarding departments in the state fiscal year 1999–2000. The federal government used fewer than 100 businesses owned by disabled veterans in California.

However, these statistics can give us only a general comparative picture of the federal and state DVBE programs. The extent to which the federal government's DVBE figures are comparable to the State's is uncertain since the federal figures we obtained do not disclose how many awarding departments failed to report DVBE participation. Also, unlike the State's program, the federal program applies only to firms owned by disabled veterans that also qualify as small businesses.

The federal program applies only to firms owned by disabled veterans that also qualify as small businesses.

We found one different aspect of the federal program interesting in its attempt to tailor the program to the needs and capabilities of individual awarding departments. The federal program allows department-specific DVBE goals to be negotiated. Thus, it appears the federal government may establish a 7 percent goal with one department whose needs closely match available DVBE services and a 2 percent goal with another department that has difficulty finding DVBEs to meet its needs. We believe that if properly implemented, this might be a reasonable approach to meeting the DVBE goals. This approach would require a more careful assessment of awarding departments' needs and DVBE

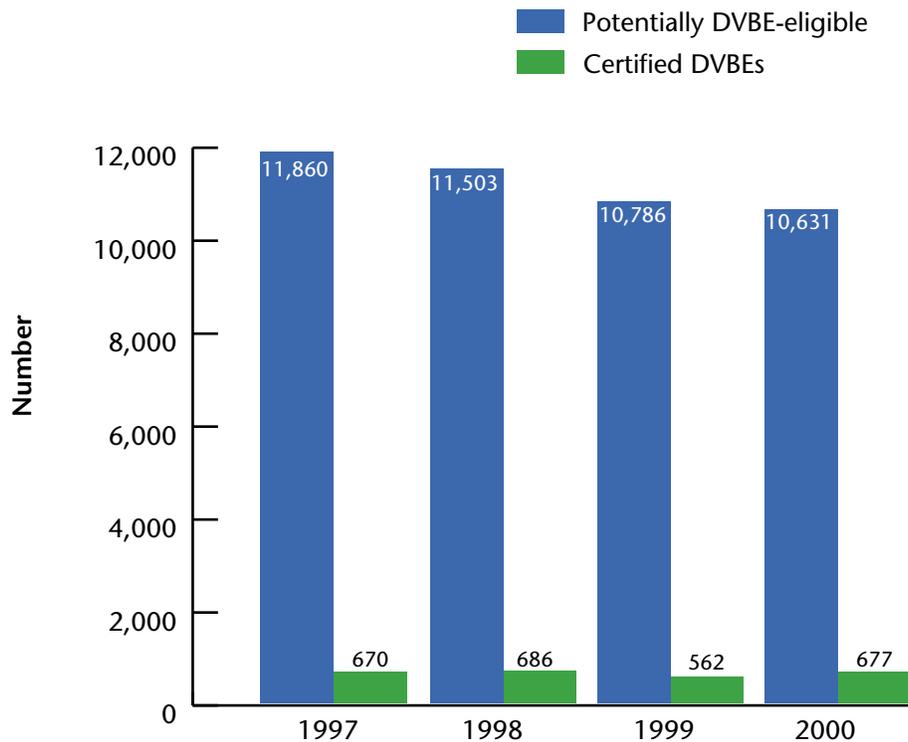
resources to satisfy those needs, rather than a blanket expectation for every department. If awarding departments are allowed some voice in setting expectations for their performance, they may be more committed to meeting those expectations. However, the extent to which federal departments have met negotiated goals is not clear, and the overall apparent results of the federal program are lackluster.

Our telephone survey of current and former DVBEs also produced some discouraging results. Using a list of DVBEs provided by General Services, we were able to survey 54 DVBEs. However, to complete these interviews, we attempted to contact more than 200 additional DVBEs. Many of these were disconnected or wrong numbers, suggesting that the DVBEs were no longer in business.

To assess whether the limited participation of DVBEs reported on both the state and federal levels could be improved, we analyzed veteran and employment data from the federal government. Our results show the possibility of many more DVBE-eligible firms in California than are currently certified. Between 1996 and 2000, annual self-employment percentage rates in the State ranged between 9 percent and 11 percent. Applying these rates to the total number of employable service-connected disabled veterans in California, we calculated a possible 11,000 additional DVBEs that could qualify for certification. Figure 5 compares our estimation to the numbers of DVBEs certified. Although this is a rough estimate, our calculation falls between estimates made by both Veterans Affairs and General Services. The statewide DVBE advocate at Veterans Affairs believes that it is “reasonable to assume” there are at least 25,000 potential DVBEs in the State. General Services roughly calculated a more conservative estimate. In its draft DVBE marketing plan from October 1999, it estimated approximately 4,300 potential DVBEs in California. All of these estimates suggest that it is possible to significantly expand the pool of certified DVBEs, especially considering that fewer than 800 are currently certified.

FIGURE 5

Estimated Potentially DVBE-Eligible Versus Certified DVBEs in California



Sources: Department of Health Services' DVBE Improvement Plans and monthly DVBE reports. Bureau of Labor Statistics' report titled *Small Business Economic Indicators 2000*. U.S. Department of Veterans Affairs data on service-connected disabled veterans.

Note: "Potentially DVBE-Eligible" data are based on the following assumptions: All service-connected disabled veterans under 65 are employed and it is reasonable to apply the State's self-employment rate to this class of workers. Additionally, we assume that each employed service-connected disabled veteran does not share business ownership with similar veterans, and that the different definitions of "disabled veteran" do not significantly impact the calculation.

GENERAL SERVICES COULD BE MORE AGGRESSIVE IN OUTREACH AND PROMOTION

One way to increase the number of certified DVBEs is to have an aggressive outreach campaign to identify and encourage potential DVBEs to participate in the program. Some of the DVBEs we surveyed argued that additional outreach could expand the pool of certified firms. However, General Services and Veterans Affairs have not completed their joint outreach plan in response to the governor's executive order.

Additionally, General Services only selectively monitors the effectiveness of outreach efforts. It has indicated this monitoring is done through the marking of certification applications that are handed out at major outreach events. If those applications are submitted to General Services, a database record of each such applicant is annotated to indicate which event, if any,

resulted in the submittals. According to General Services, this form of monitoring took place for a major outreach event in late April 2002 at which the governor delivered a keynote address to an audience that included hundreds of small businesses and DVBEs. Every DVBE application handed out at that event that resulted in an application for certification was tracked when it came back to General Services.

General Services' staff also could not readily quantify their outreach activities. When we asked for this information, they had to reconstruct a record of their activities based on personal calendars and planners. General Services ultimately provided us with an extensive list based on this reconstruction. The list included five different types of outreach activities or trainings, including two-day business community trainings, two-hour business community workshops on how to do business with the State, special DVBE presentations, trade show exhibits, and state agency trainings.

The list identified General Services' involvement in 42 DVBE presentations between April 2000 and February 2002. According to the manager of the outreach and education unit, these presentations are done at the request of an organization or individual and have a mixture of certified and potential DVBEs in their audiences. Of the 42 presentations, 14 were made to DVBE or veterans' groups. Other listed presentations consisted of DVBE Council meetings, marketing plan meetings, and miscellaneous events, only some of which appear to constitute outreach.

It is unclear to what extent the remaining General Services' outreach is targeted to disabled veterans' groups. Most of these efforts appear to be directed to the small business community and miscellaneous groups rather than DVBEs. Between January 1, 2000, and March 15, 2002, only 2 of 73 business community workshops and 1 of the 102 trade show exhibits specifically targeted an audience of veterans. General Services scheduled 51 two-day business community trainings, four hours of which were devoted to the DVBE program. General Services has indicated these presentations targeted a mixed audience of small businesses and DVBEs. However, none had a specifically DVBE audience; 18 targeted small business groups and the remainder targeted General Services' own staff (11), the California State University (10), and various other groups (12).

It is unclear to what extent General Services' outreach is targeted to disabled veterans' groups.

However, to General Services' credit, in March 2001 it sent 428 DVBE applications to potentially qualified firms based on its review of a federal database (PRO-net).

In surveys we conducted with 54 current and former DVBEs, many said General Services should focus outreach efforts on veterans' groups. As of May 2002, General Services had not taken the following actions that we believe would be reasonable:

- Conduct any type of population or labor study to identify potential DVBEs.
- Survey current certified DVBEs to understand how to reach potential DVBEs. Instead, General Services has indicated that its approach has been to use the members of the DVBE advisory council to develop an understanding of how to reach potential DVBEs.
- Focus its outreach efforts on veterans' organizations such as the American Legion, Disabled American Veterans, or the Veterans of Foreign War. General Services cited only one instance of outreach to county veteran service officers, who directly serve the disabled veteran community.

Without well-planned and well-executed outreach, the State cannot be assured it has achieved the full potential of the DVBE program.

RECOMMENDATIONS

To ensure DVBE statistics are accurate and meaningful, General Services should require awarding departments to report actual participation and maintain appropriate documentation of statistics, continue its periodic audits of these figures for accuracy, and, if the audits reveal a pattern of inconsistencies or inaccuracies, address the causes in its reporting instructions.

Those state agencies that have not already done so should finalize and implement their plans to monitor awarding departments' reporting of DVBE statistics and, for those failing to meet the 3 percent goal, monitor their efforts to improve DVBE participation.

To determine if the 3 percent DVBE goal is reasonable, the Legislature may wish to consider requiring either General Services or Veterans Affairs to commission a study on the

potential number of DVBE-eligible firms in the State, the services they provide, and their geographic distribution, and compare this information to the State's contracting needs.

Based on the results of this study, the Legislature may wish to consider doing the following:

- Modify the current DVBE participation goal.
- Allow General Services to negotiate department-specific goals based on individual contracting needs and the ability of the current or potential DVBE pool to satisfy those needs.

To ensure the DVBE program is promoted to the fullest extent possible, General Services should aggressively explore outreach opportunities with the U.S. Department of Veterans Affairs and organizations such as the American Legion, Disabled American Veterans, and Veterans of Foreign Wars. In particular, General Services should cultivate a clear working relationship with county veteran service officers. It should also maintain complete records of its outreach and set up a system to track effectiveness. For example, General Services could consistently survey newly certified DVBEs to determine how they heard about the program and what convinced them to apply for certification.

Finally, General Services and Veterans Affairs should continue to work to develop their joint plan for improving the DVBE program, finalizing and implementing it as soon as possible. ■

CHAPTER 2

Flawed Structure and Implementation of the DVBE Program Weaken Its Chances for Success

CHAPTER SUMMARY

The State does not have an effective system in place for implementing the Disabled Veteran Business Enterprise (DVBE) program, and the law establishing the program has its own weaknesses. The DVBE statutes are flexible, and the Department of General Services' (General Services) clarifying regulations to ensure compliance with the program's 3 percent DVBE participation goals are limited. Our review of five departments that award contracts (awarding departments) found very little consistent monitoring of the DVBE program. Specifically, only one of the five awarding departments monitors the amount and value of the contracts it exempts from DVBE requirements. Without such monitoring, the remaining four awarding departments cannot determine the increase in DVBE participation that is necessary on nonexempt contracts to remain in compliance with the 3 percent participation goal.

Another monitoring weakness is the inconsistency with which awarding departments scrutinize a bidder's good-faith effort to find and use a DVBE. Our review found the good-faith effort option to be a relatively easy means for bidders to meet DVBE requirements without actually using a DVBE. We also noted that bidders have a financial incentive to document their good-faith effort rather than have a DVBE subcontractor, because it allows them to earn 100 percent of the contract instead of 97 percent. The State Contracting Manual has guidance on how awarding departments should evaluate a bidder's good-faith effort documentation, but the guidance is not binding. This has led to inconsistent evaluation of good-faith effort evidence among awarding departments, and most of the awarding departments in our sample did not take any steps to verify the accuracy of certain submitted evidence.

Finally, the five awarding departments we reviewed had a wide range in policy and practice for monitoring actual DVBE participation after the contract has been signed. Without consistent monitoring, awarding departments cannot ensure that the winning bidder is actually using the DVBE as a subcontractor.

THE LAW AND REGULATIONS ALLOW AWARDING DEPARTMENTS WIDE LATITUDE IN ADMINISTERING THE DVBE PROGRAM

The DVBE program in its current form is not consistently effective. Half of the DVBEs we surveyed were either not satisfied with program contracting procedures or results or had not contracted with the State as a DVBE. In Chapter 1, we recommended that a study be conducted on the pool of potential DVBEs and, based on the results, that the Legislature consider whether to revise the statutory participation goal. Regardless of the results of that study, however, the inherent weaknesses in the program should be addressed if it is to continue. These weaknesses include the lack of financial incentives in law to contract with DVBEs, the flexibility of the law itself, the lack of consistent and effective oversight and methods for monitoring program implementation, and the lack of accurate data on the program's potential and results.

Inherent weaknesses in the DVBE program include:

- ✓ ***The lack of financial incentives to contract with DVBEs.***
 - ✓ ***The lack of effective oversight.***
 - ✓ ***The lack of accurate data on results.***
-

Most of these weaknesses derive from the enabling law's flexibility, which allows awarding departments wide latitude in determining how to monitor and enforce program compliance. The law requires General Services to adopt rules and regulations for the purpose of implementing the program, but these regulations offer little more than a restatement of the law. Further, according to the State Contracting Manual, awarding departments have the option to adopt General Services' regulations or develop their own. At two of the five awarding departments whose policies we reviewed, separate units within the awarding departments established their own policies for implementing the program. As a result, much of the program's structure is decentralized, allowing for a range of policies and procedures that potentially weakens the program's effectiveness.

General Services, functioning as the program administrator, does not believe its role is to provide oversight. The law, in fact, does not assign General Services an enforcement role, and it was not until the governor's executive order in June 2001 that agencies were required to monitor the effectiveness of the

DVBE programs in the awarding departments they oversee and require them to submit improvement plans, if needed. Without genuine force behind its intentions, the program invites a casual response from awarding departments, while the DVBEs themselves may become discouraged.

SURVEYED DVBEs WERE GENERALLY PLEASED WITH THE REVISED CERTIFICATION PROCESS, BUT MANY HAVE NO EXPERIENCE CONTRACTING WITH THE STATE

Several DVBEs applauded the recent improvements to simplify the certification process.

The DVBEs themselves offered a wide range of reactions to the DVBE program's administration and effectiveness. We completed telephone surveys with 54 current and former DVBEs from throughout the State, asking their opinions about their experiences with two main areas—the certification process and their actual contracting experiences through the program. We summarize the results of the survey in Table 1 on the following page. The DVBEs were generally pleased with the certification process, with over half (30 of 54 respondents) saying their experience was either positive or very positive. Comments ranged from a few negative, describing the process as somewhat cumbersome or time-consuming, to very positive, characterizing it as very simple. Several DVBEs applauded the recent improvements to simplify the certification process. We also reviewed the streamlined certification process at General Services for efficiency and found no obvious obstacles in the workflow. General Services' statistics on its processing time for certification indicate that it generally operated well within its goal of completing certification within 30 working days of receipt of the application and averaged 12.4 working days for certification between May 2000 and December 2001. Thus, based on our limited review, we believe the certification process is reasonably efficient and poses few, if any, obstacles to the program's success.

Opinions about contracting were still weighted toward the positive, with 21 respondents reporting positive or very positive experiences and 9 reporting negative or very negative experiences. However, fully one-third of the respondents had no actual contract experience, either as a prime contractor or a subcontractor, through the program. Although other factors, such as a lack of need for services the DVBEs offer, may contribute to this result, the extent of respondents without program contracting experience also appears to be a negative reflection on the program's effectiveness. Positive comments about

contracting through the program included statements about its generating work for DVBEs. Two DVBEs less satisfied with the program described instances when prime contractors used them to win bids but did not use their services or pay them, and another criticized the lack of enforcement. Nevertheless, the respondents with contracting experience were generally pleased with the program.

TABLE 1

Survey Results From Current or Former DVBEs

How would you rate. . .	Very Negative	Negative	Neutral	Positive	Very Positive	No Opinion	Not Applicable	Mixed Response	Totals
. . . the DVBE certification process?	0	7	15	15	15	0	0	2	54
. . . your contracting experience through the DVBE program?	6	3	1	15	6	4	18	1	54

Source: Bureau of State Audits' survey of 54 current or former certified DVBEs.

Note: "Not Applicable" refers to DVBEs who had never contracted with the State and thus could not provide an opinion. "Mixed Response" indicates the DVBE had both positive and negative opinions on the question.

SOME AWARDING DEPARTMENTS EXEMPT A SIGNIFICANT NUMBER OF CONTRACTS, POTENTIALLY LIMITING THEIR ABILITY TO MAXIMIZE DVBE PARTICIPATION RATES

Because the law evaluates compliance with the participation goal based on overall dollars expended, awarding departments may exempt any given contract from DVBE participation requirements; however, they must increase the percentage on other contracts to reach their overall 3 percent goal. The frequency with which certain awarding departments we reviewed exempt contracts is significant. Further, some of these awarding departments are not tracking the value of the contracts they exempt or the required compensating increase in participation goals for their remaining contracts. For fiscal year 2000–01, two of the five awarding departments we reviewed, the Department of Health Services (Health Services) and the Department of Transportation (Caltrans), did not compensate for these exemptions with increased participation on other contracts, and subsequently reported they did not meet the participation goal. A third department, Department of Fish and Game (Fish and Game), reported that it met the goal. However, the statistics it reported were incorrect, and it is not clear whether revised numbers will demonstrate it had 3 percent DVBE participation.

According to our own calculations, Health Services exempted 48 percent of DVBE-eligible contract dollars it reported in fiscal year 2000–01, which means it would have had to average almost 6 percent on all remaining eligible contracts to meet the DVBE goal. Health Services is not alone in exempting a significant percentage of such contracts. Staff from General Services' procurement division estimated they exempted over 50 percent of its contracts during fiscal year 2000–01.

Awarding departments exempt bidders from DVBE goals in eligible contracts for various reasons, including:

- Department policy is to exempt all contracts under a certain dollar threshold.
- The services can be provided by only one vendor.
- The required services are time sensitive, leaving no time to find a DVBE.
- Current DVBEs are not specialized enough or geographically close to the job site.

The procurement division's need to estimate its exemptions arose from its lack of monitoring and inability to produce actual data. In fact, four of five awarding departments we reviewed did not consistently track how often they exempted contracts from DVBE requirements and we could not always calculate the value of exempted contracts because of incomplete supporting documentation. Without data on exempt contracts, awarding departments cannot adjust the DVBE participation requirements on nonexempt contracts to ensure they meet the overall 3 percent goal. Despite the large dollar amounts associated with exempted contracts, none of the 82 contracts with DVBE goals that we reviewed at these awarding departments had DVBE participation requirements exceeding 3 percent.

An awarding department may make its decisions to exempt contracts from DVBE participation goals on a contract-by-contract basis. When it develops bid solicitation documents, its staff can review the General Services certified firm listing to determine if certified DVBEs exist to perform required services. If not, it might exempt the contract. The Board of Equalization (Equalization) has indicated it sometimes follows this process. Health Services exempts contracts for maintenance of certain laboratory equipment because only one, non-DVBE, contractor can provide the service. According to the Department of Forestry and Fire Protection's improvement plan, much of its purchasing is done on emergency fires where immediate need requires them to go to the closest source. This does not allow the department the flexibility of using DVBE vendors for some products.

Some departments we reviewed exempt all contracts with certain characteristics, and the reasonableness of these blanket decisions may not be clear. For example, at least one unit within four of the five departments we reviewed has indicated it exempts all

Some departments we reviewed exempt all contracts with certain characteristics, and the reasonableness of these blanket decisions is not always clear.

contracts it believes do not offer a subcontracting opportunity for DVBEs. For instance, the procurement and contracts unit at Caltrans currently exempts services for private security, commercial and highway equipment rental, machine repair, and medical exams. However, certified DVBEs currently appear to offer all these services. The unit's practice of not looking for DVBEs as prime contractors or vendors may significantly reduce its chances at obtaining more DVBE participation.

This situation can occur because awarding departments need not go through a good-faith effort to find a DVBE similar to the requirement placed on bidders. If awarding departments made such an effort, even periodically, they would at least have an updated understanding of the capabilities of the DVBE community and whether their broad exemptions are reasonable. Additionally, if the law required awarding departments to advertise in trade publications or seek out currently certified DVBEs capable of performing the required services, the number of participating DVBEs might increase.

Various units at three of the five awarding departments we reviewed also exempt all contracts from DVBE requirements when the value of the contract falls below a set dollar threshold. As a result, they may miss additional opportunities to use DVBEs, which are often small businesses and, we believe, more able to participate on smaller projects. For example, Health Services exempts all contracts under \$10,000. The DVBE advocate at Health Services explained the exemptions policy for contracts under \$10,000, indicating that Health Services does not believe it is prudent or cost effective to ask prime contractors to search for a DVBE in these instances, and the required advertising can become costly for the size of the contract. A recently enacted law has streamlined the contracting process in instances when awarding departments enter a contract for up to \$100,000 (up to \$200,000 for construction contracts) with a DVBE without following the State's competitive bidding requirements. This law will likely help increase DVBE participation rates.

Exempting large amounts of contract dollars does not necessarily preclude a department from meeting the 3 percent goal. Equalization, which met the 3 percent goal, has exempted all but three of its contracts within the last three years. According to the manager of its contracts and procurement division, Equalization's contract unit has concluded that routinely including DVBE participation goals in solicitations

tends to reduce the number of bidders, lengthen the time required to conduct solicitations, increase the number of bidders' technical errors, and increase the likelihood of rebids. Further, when Equalization has included DVBE participation goals, bidders generally make good-faith efforts. Instead, according to the manager, the procurement unit has identified DVBE suppliers for office supplies and technology items, and the unit uses these DVBEs until it meets the goal. Despite Equalization's success while exempting many contracts, we believe that, for most awarding departments, this practice would make attaining the participation goal more difficult.

THE WINNING BIDDER OFTEN USES A GOOD-FAITH EFFORT RATHER THAN ACTUALLY HIRING A DVBE

The law has a provision for a good-faith effort, which allows a bidder to demonstrate an attempt in good faith to find a certified DVBE subcontractor rather than to use one. The good-faith effort allows the contracting work to proceed without unnecessary delays. Thus, the good-faith effort provisions in the statutes and regulations do not always promote DVBE participation. An additional problem is awarding departments' loose evaluations of the quality of this effort. Further, the

process itself is not efficient. Under the current law, bidders have no financial incentive to use DVBEs, and the good-faith effort provision in law provides an easy way for them to meet requirements without actually using a DVBE as a subcontractor.

When a contract specifies a DVBE participation requirement, bidders may prove to the awarding department's satisfaction that they made a good-faith effort to find a DVBE but were unsuccessful. The Public Contract Code, Section 10115.2, requires the awarding department to award the contract to the "lowest responsible bidder meeting or making good-faith efforts to meet the participation goal." Bidders must only submit evidence of their good-faith efforts to awarding departments, and they appear to satisfy DVBE

participation requirements in this way very frequently. For example, the procurement and contracts unit within Caltrans had their contracts' DVBE participation requirements satisfied through good-faith efforts roughly 70 percent of the time. We believe this provision is necessary to avoid requiring bidders to

To perform a good-faith effort, the law requires that a bidder:

- Contact the awarding department about potential DVBEs.
- Contact another state and federal source to obtain information on potential DVBEs.
- Advertise in trade papers and other publications where DVBEs may be found.
- Solicit potential DVBEs for participation in the contract.
- Consider using DVBEs that reply.

find DVBEs for services not currently offered or in geographical areas where they may not exist, but this option adds to the problem of meeting the overall DVBE goal.

In addition, the law requires an unnecessary step in meeting the good-faith effort. The step requires bidders to contact the federal government to help identify potential DVBEs. However, contacting the awarding department and looking at General Services' definitive listing for certified DVBEs in the State seems adequate. Instead of spending time consulting with the federal government, bidders may more easily and appropriately search for certified DVBEs by contacting the awarding department, which may maintain a list of interested DVBEs, or search for certified DVBEs based on services offered, location, or the name of the business on General Services' listing. Bidders thinking the federal government is the appropriate source for certified DVBEs in the State risk using non-certified firms in their bids, which should disqualify them. In fact, the State Contracting Manual warns that awarding departments should be careful to verify that firms identified through a federal source are certified DVBEs. Even so, General Services believes that this step is useful for outreach, contending that bidders who discover new DVBE qualified firms could encourage them to apply for certification. However, in light of General Services' recent mass mailing to potential DVBEs, based on the federal PRO-net database, the outreach value of bidders performing this step is questionable. Nevertheless, DVBE outreach is the responsibility of General Services, not bidders on state contracts. We agree that contacting DVBEs on federal government listings may have useful outreach benefits, but we believe General Services should be proactive and work with these federal sources directly.

The effectiveness of the implementation of the good-faith effort may also be diminished by the lack of consistent or meaningful standards to follow when evaluating bidders' documentation of such efforts. Although statute requires General Services to adopt standards, it has not issued much direction to awarding departments on how to evaluate a bidder's good-faith effort. The State Contracting Manual offers suggestions for procedures in assessing good-faith effort. These include random verification of vendors' solicitations of DVBEs, the consideration that vendors gave to any responses, and a review of bid evaluation criteria and how the vendor applied those criteria to bids from subcontractors. It also gives suggestions for evaluating the sincerity of good-faith efforts. In particular, it proposes the awarding departments review multiple bids submitted by the

The State Contracting Manual offers suggestions to awarding departments on evaluating good-faith effort, but the suggested procedures are not binding.

same vendor to determine if the vendor repeats unsuccessful contacts instead of trying to solicit new DVBEs as potential subcontractors, uses contacts that are out of business, conducts solicitations irrelevant to the contract, or uses identical DVBE documentation packages for more than one contract bid. All of these suggestions are appropriate, but not binding.

A common result of this lack of direction is cursory evaluations of a bidder's good-faith effort. For example, Health Services does not instruct staff to independently verify bidders' statements that they solicited DVBEs to participate as subcontractors. A telephone call to the DVBEs that bidders claim to have solicited could confirm actual contact. Caltrans also does not follow up to ensure that the potential DVBEs were contacted. We also noted two contracts in which one of General Services' units approved a bidder's good-faith effort even though the bidder did not cite any reason for not using an interested DVBE.

Prime contractors also have a financial incentive to satisfy the DVBE requirement through the good-faith effort instead of subcontracting with a DVBE. If they do so, they receive payment on the entire contract instead of only 97 percent of it. Improvement plans we reviewed from three awarding departments all raised the issue that DVBEs are not generally cost effective and may unnecessarily drive up the price quotation, especially when the bidder is capable of completing all of the work alone. In fact, of the 20 contracts we reviewed at Caltrans with second or third bidder information, 13 contracts had winning bidders who used the good-faith effort to meet the DVBE requirements, and their bids were lower than others that actually included DVBEs.

Unlike the law governing small businesses, the DVBE law does not provide financial incentives to bidders when they actually identify certified firms for subcontracting.

Unlike the law governing small business, the DVBE law does not provide financial incentives to bidders for actually using certified firms. We believe bidders would be more inclined to look for and actually use these firms if they were more likely to win the contract as a result of their efforts. Under the small business program, bidders that are a small business or that agree to use a small business get a bidding preference, which reduces the bid amount by 5 percent of the lowest bid that did not specify the use of a small business, within certain limitations. As a result, bidders who promise to use small businesses have an advantage in competing for state contracts over those who do not.

Some DVBEs have expressed concerns about prime contractors' practices related to the good-faith effort. For instance, documentation provided by DVBEs showed one bidder requested a bid from a DVBE after the bid closing date and another requested a bid just two days before closing, leaving the DVBEs with little or no time to respond. In each case, the bidders claimed that they had sent earlier communications, which the DVBEs did not receive. Further, bidders do not always focus their solicitations on DVBEs able to perform the needed services. For example, a DVBE that manufactures concrete and asphalt blocks reported receiving solicitations for the development of an education curriculum and for a reroofing project. Such practices can undercut the intent of the program and leave DVBEs frustrated.

SOME AWARDING DEPARTMENTS DO NOT ENSURE DVBEs ARE ACTUALLY USED

Although we believe it is reasonable to expect awarding departments to monitor actual DVBE participation to ensure the bidder is complying with the program's requirements, some awarding departments do not, and statute does not explicitly require such monitoring. The law is very general, only requiring awarding departments to adopt rules and regulations to monitor compliance with program goals. Compounding the effect of limited monitoring is the regulation that requires reporting what the contract promises to pay the DVBE, not what the bidder actually paid, an issue we discussed in Chapter 1. This regulation may have the additional effect of focusing awarding departments' attention on initial contract provisions rather than on the full implementation of the contract.

At the five awarding departments and their related units we visited, we noted a wide range in the policy and practice for the monitoring of actual DVBE usage. Caltrans' procurement and contracts unit had particularly thorough procedures, requiring contract managers to ensure invoices reflect the particular services provided or work done by DVBEs and the related costs. Fish and Game also had procedures for monitoring contractors' actual use of DVBEs. If followed, this monitoring provides some assurance that the specified DVBE is being appropriately used.

A wide range exists in departments' policies and procedures for monitoring actual DVBE usage.

However, in our review of contracts from Caltrans' procurement and contracts unit, we did not note monitoring consistent with the unit's policy. On the other hand, Equalization has not had a subcontracting DVBE arrangement recently, but

instead monitors its DVBE usage through commodity contracts. According to Health Services' DVBE advocate, Health Services lacked policy to monitor actual DVBE usage before February 2002. Only recently did it require that prime contractors' invoices include DVBE dollars. Furthermore, we did not note any monitoring in contracts we reviewed from three of four selected units within General Services. Only one of the two Risk and Insurance Management unit's contract files we reviewed contained evidence of DVBE monitoring. Without consistent monitoring, departments would have no systematic means to discover the noncompliance and instead would rely on the DVBEs to complain when contractors do not use them.

We believe if awarding departments had the clear ability to consistently enforce the DVBE provisions of their contracts, contractors would be less likely to violate the DVBE requirements.

It is unclear the extent to which awarding departments can impose penalties on prime contractors who fail to comply with the DVBE requirements in a contract. General Services asserts that it is unaware of any statutory authority that gives awarding departments the ability to impose financial penalties on a prime contractor. In fact, General Services' legal counsel believes that it would be difficult for awarding departments to assess such penalties because administrative hearing officers often deem DVBE noncompliance to be an immaterial issue. We believe if awarding departments had the ability to enforce the DVBE provisions of their contracts, bidders would be less likely to violate the DVBE requirements. Therefore, from a program enforcement standpoint, it appears that it would be helpful for awarding departments to have a clear understanding of the enforcement tools that are available to them to ensure that bidders comply with the DVBE requirements.

A bidder may fulfill a contract's DVBE requirement through a utilization plan that General Services approves. Utilization plans detail the bidders' proposal to subcontract 3 percent of their work for the succeeding year to DVBEs. A prime contractor with a DVBE utilization plan faces strict requirements, including financial penalties, if it does not use the indicated DVBE. For example, businesses with DVBE utilization plans are subject to random audits by General Services. If the audit reveals that the business failed to comply with its approved utilization plan, General Services can impose financial penalties that include "paying the difference between the contract amount and what the State's cost would have been if the contract had been properly awarded plus a penalty of up to 10 percent of the amount of the contract." Additionally, General Services can deem the business ineligible to do business with the State for 3 to 24 months.

These strict policies governing the DVBE utilization plan and the relative ease of meeting DVBE requirements through the good-faith effort may explain why, according to General Services' outreach staff, no businesses in the State currently have utilization plans. Thus, we believe DVBE regulations can be too onerous as well as too flexible for program goals to be met. However, a combination of program incentives, such as a bidding preference, more consistent and forceful monitoring requirements, and assessment of penalties for contractors that abuse the program would increase the program's chances for success.

RECOMMENDATIONS

To maximize DVBE participation, awarding departments should attempt to use DVBEs as prime contractors instead of viewing them only as subcontractors. Further, the awarding departments should periodically examine the basis of their assumptions behind blanket exemptions for whole categories of contracts to ensure the exemptions are justified.

To ensure that prime contractors make a genuine good-faith effort to find a DVBE, the Legislature should consider requiring awarding departments to follow General Services' policies. General Services should issue regulations on what documentation the awarding departments should require and how they should evaluate that documentation. These standards should include steps that ensure the documentation submitted is accurate. Similarly, General Services should issue regulations on what steps departments should take to ensure contractors meet DVBE program requirements. These steps might include requiring awarding departments to monitor vendor invoices that detail DVBE participation or requiring the vendor and DVBE to submit a joint DVBE utilization report.

To increase the efficiency and effectiveness of the DVBE program, the Legislature should consider doing the following:

- Replace the current good-faith effort step requiring bidders to contact the federal government with a step directing bidders to contact General Services for a list of certified DVBEs.

- Enact a contracting preference for DVBEs similar to the one for the small business program—that is, allow an artificial downward adjustment to the bids from contractors that plan to use a DVBE to make the bids more competitive.
- Require awarding departments to go through their own good-faith effort in seeking DVBE contractors.
- Provide awarding departments with the authority to withhold a portion of the payments due to contractors when they fail to use DVBEs to the extent specified in their contracts.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



ELAINE M. HOWLE
State Auditor

Date: July 3, 2002

Staff: Lois Benson, CPA, Audit Principal
Grant Parks
Erin Buell
Matt Espenshade
Karen Peterson
John Romero
Felicity Wood
Paul Zahka

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Agency's comments provided as text only.

State and Consumer Services Agency
Office of the Secretary
915 Capitol Mall, Suite 200
Sacramento, CA 95814

June 21, 2002

Elaine Howle, State Auditor*
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, California 95814

Dear Ms. Howle:

Enclosed is our response prepared by the Department of General Services to the Bureau of State Audits' Report No. 2001-127 entitled *Disabled Veteran Business Enterprise Program: Few Departments That Award Contracts Have Met the Potentially Unreasonable Participation Goal, and Weak Implementation of the Program Further Hampers Success*. A copy of the response is also included on the enclosed diskette.

In addition, we have included in this letter the Agency's response to the recommendation from Enclosure B.

Recommendation: State agencies should finalize and implement their plans to monitor awarding departments' reporting of DVBE statistics and, for those failing to meet the 3 percent goal, monitor their efforts to improve DVBE participation.

SCSA Response: *The State and Consumer Services Agency agrees that state agencies should monitor awarding departments' reporting of their DVBE statistics. In fact, we have implemented a monitoring process and require each of our departments to report their statistics on a monthly basis to the Agency. A copy of this policy, which is attached, was provided to the BSA. In addition, on April 29th, I personally briefed the directors within our agency about the importance of complying with this law and the Governor's Executive Order (D-37-01). Also, Deputy Secretary Happy Chastain, gave a similar briefing to the*

* California State Auditor's comment appears on page 57.

Ms. Elaine Howle
June 21, 2002
Page 2 of 2

Chief Deputies from our departments. Since we have been monitoring these statistics monthly, 50% of our departments have improved their DVBE participation rates.

To ensure that statewide statistics are reported in a timely fashion to the Department of General Services, I have implemented the attached procedures, which include advising agency secretaries when departments are remise in reporting their statistics.

If you have any questions or need additional information, please contact me at 653-2636.

Best regards,

(Signed by: Aileen Adams)

Aileen Adams
Secretary

Enclosures



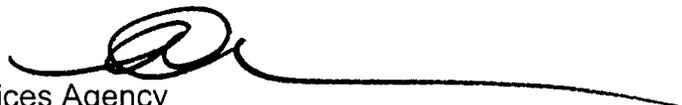
State and Consumer Services Agency

OFFICE OF THE SECRETARY
915 CAPITOL MALL, SUITE 200
SACRAMENTO, CA 95814

African American Museum
Building Standards Commission
Consumer Affairs
Fair Employment & Housing
Fair Employment & Housing Commission
Franchise Tax Board
General Services
Insurance Advisor
Science Center
Personnel Board
Public Employees' Retirement System
Teachers' Retirement System

Memorandum

TO: Department Directors and Executive Officers

FROM: Aileen Adams, Secretary 
State and Consumer Services Agency

DATE: March 14, 2002

SUBJECT: Compliance with Governor's Executive Orders Regarding
Contracting with Small Businesses and Disabled Veteran's
Business Enterprises (DVBE)

The purpose of this memo is to reinforce the importance of compliance with the statutory goal of 3% DVBE participation in state contracts and the Governor's Executive Order (D-37-01), which establishes a 25% participation level goal for small businesses. With the exception of the Department of General Services, no other department within this agency is meeting these important goals, although a number have made improvements. For example, the California Science Center achieved a 27% small business participation level. In addition, last year two departments did not meet the reporting deadlines. This year, reports regarding your compliance with the DVBE goal and the small business participation statistics are due on September 1, 2002 to the Department of General Services. You **must** ensure that this deadline is met by your department.

As you know, the importance of compliance with these Executive Orders has been reinforced in previous memos and at Directors' meetings. To ensure better oversight of your compliance, I am asking each Director personally to review the relevant statistics on a monthly basis and to forward them to Happy Chastain at the agency. Please indicate the special efforts that you have made to comply with the Executive Orders during each month, and the reasons why you were not able to obtain compliance, if that is the case.

On several occasions, we have informed you that the Department of General Services would be happy to assist you in complying with the Governor's Executive Orders relating to small business and DVBE participation. Departments that have utilized DGS trainings have greatly improved in their compliance. Please contact as soon as possible Ralph Chandler, Director of Procurement, DGS, to assist you in your efforts.

In addition, we are in the process of responding to a Bureau of State Audit's survey related to DVBE participation. To assist us in this response, please answer the questions on the following page and return your responses to Happy Chastain by close of business Monday, March 18.

Thank you in advance for doing all that you can do to ensure compliance with small business and DVBE participation goals.

Attachments

cc: Ralph Chandler

**STATE AND CONSUMER SERVICES AGENCY
SMALL BUSINESS/DISABLED VETERAN
CONTRACTING PARTICIPATION STATISTICS**

DEPARTMENT _____

FOR THE MONTH/YEAR OF _____

This report is due by the 15th of each month. Please email this form to: Hchstai@scsa.ca.gov
Please call Happy Chastain at (916) 653-3111, if you have questions.

	TOTAL CONTRACTING DOLLARS	TOTAL SMALL BUSINESS DOLLARS	SMALL BUSINESS %	TOTAL DVBE DOLLARS	DVBE %
MONTHLY					
YEAR-TO-DATE					

If your small business participation is less than 25%, please explain why:

If your DVBE participation is less than 3% please explain why:

Contact Person & Phone #:



State and Consumer Services Agency

OFFICE OF THE SECRETARY
915 CAPITOL MALL, SUITE 200
SACRAMENTO, CA 95814

African American Museum
Building Standards Commission
Consumer Affairs
Fair Employment & Housing
Fair Employment & Housing Commission
Franchise Tax Board
General Services
Insurance Advisor
Science Center
Personnel Board
Public Employees' Retirement System
Teachers' Retirement System

Memorandum

TO: Clothilde Hewlett, Interim Director
Department of General Services

Ralph Chandler, Deputy Director
Procurement Division
Department of General Services

FROM: Aileen Adams, Secretary 
State and Consumer Services Agency

DATE: June 20, 2002

**SUBJECT: DISABLED VETERANS BUSINESS ENTERPRISE (DVBE)
REPORTING STATISTICS**

This memo sets forth procedures to be implemented to ensure that departments report DVBE participation rates in a timely fashion. Current law requires that state agencies compile DVBE participation statistics on a fiscal year basis, July 1 – June 30. These statistics, which are then reported to the Department of General Services by September of each year, are compiled in a statewide report and published annually.

Please have your staff advise this agency before September 5th of each year of the departments that have not reported their statistics. I will personally contact the appropriate Department Directors or Agency Secretaries to ensure that these statistics are forwarded promptly to your department.

Thank you for your assistance regarding this important program. Should you or your staff have any questions, please contact Happy Chastain at 653-3111.

Department of General Services

Date: June 20, 2002

File No.: 2001-127

To: Aileen Adams, Secretary
State and Consumer Services Agency
915 Capitol Mall, Room 200
Sacramento, CA 95814

From: **Department of General Services**
Executive Office

Subject: **RESPONSE TO BUREAU OF STATE AUDITS' REPORT NO. 2001-127- "DISABLED VETERAN BUSINESS ENTERPRISE PROGRAM: FEW DEPARTMENTS THAT AWARD CONTRACTS HAVE MET THE POTENTIALLY UNREASONABLE PARTICIPATION GOAL, AND WEAK IMPLEMENTATION OF THE PROGRAM FURTHER HAMPERS SUCCESS"**

Thank you for the opportunity to respond to the Bureau of State Audits' (BSA) Report No. 2001-127, which addresses recommendations to the Department of General Services (DGS). The following response addresses each of the recommendations.

OVERVIEW OF THE REPORT

The DGS has reviewed the findings, conclusions and recommendations presented in Report No. 2001-127. The DGS will take appropriate actions to address the recommendations.

Overall, the DGS is pleased that the BSA concluded that the department's certification process poses few, if any, obstacles to the Disabled Veteran Business Enterprise (DVBE) program's success. Although the DGS has other operational responsibilities within the DVBE program, the certification process represents one of its primary responsibilities within the program. We are also pleased that the BSA's survey of current and former DVBE's found that they were generally pleased with the certification process. This result reflects favorably on recent actions taken by the DGS to simplify and streamline the certification process. These actions included, beginning in January 2001, the DVBE application form being shortened from 31 pages to 1 page and applicants being able to complete it online.

As presented in Chapter 1 of the report, the BSA has concerns that most state departments are not meeting the 3% DVBE participation goal in state contracting. Prior to the audit, the Governor recognized this condition and took a number of significant actions to increase the state's participation rate. Of primary importance, on June 22, 2001, the Governor issued Executive Order D-43-01. In that order, the Governor noted that most state departments have not met the 3% participation goal and restated his firm commitment to the DVBE program. Further, he required each department director or chief executive officer to take all appropriate action to ensure that the state's contracting programs are administered in a manner that promotes the participation of DVBEs to the greatest extent possible. He also directed each Agency Secretary to promote the use of DVBEs within their agency. The order provides that all

state departments shall make every effort to assure that the 3% goal is met by June 30, 2002. Any department that does not meet the goal shall report to the Governor by December 1, 2002 on the reasons why participation was not achieved and options for improving contracting opportunities for DVBEs.

The Governor has also recently signed a number of new laws that further his goal of increasing DVBE participation rates within the state's contracting program. These laws contain provisions that require the Department of Veterans Affairs (DVA) and awarding departments to appoint advocates for the DVBE program. Further, the DGS recently sponsored a revision to existing statutes that allows a streamlined contracting process to be followed in awarding contracts to DVBEs. For contracts with a dollar value of less than \$100,000, this process allows a department to contract with a DVBE without following the state's formal bidding process, as long as price quotations are obtained from two or more certified small businesses or DVBEs. The law requiring the DVA to appoint a DVBE advocate was effective January 2000, while the provisions related to departmental DVBE advocates and streamlined contracting were effective January 2002.

In addition, the DGS has assigned additional resources to the DVBE program. Specifically, in July 2000, the Office of Small Business and DVBE Outreach and Education was created to provide more focused efforts on increasing the participation of small businesses and DVBEs in state contracting. Further, in August 2001, the DGS redirected two staff members to that office to work on a joint DVBE outreach and participation plan with the DVA. The purpose of the plan is to promote and maximize the effective use of DVBEs in state contracting, ensure fair and competitive participation and increase the number of certified DVBEs available to state agencies in their procurement efforts.

The DGS is also actively supporting the DVBE Advisory Council, which is chaired by the DVA. The Council, which first met in January 2001, is composed of certified DVBEs. Its mission is to create a partnership between the State of California and the DVBE community to ensure business for the DVBE community and educate and promote opportunities throughout the State of California.

In Chapter 1 of the report, the BSA estimates that 11,000 additional DVBEs may be eligible statewide for certification. It should be emphasized that, as indicated by the BSA, this is a very rough estimate of total eligible firms. Currently, data is not readily available data on the number of potentially eligible DVBEs within the state. This number should also not be taken as the total number of DVBEs that are available to provide goods and services to the state. The DGS believes that only a small fraction of the estimated 11,000 firms provide goods and services that are contracted for by the state.

In summary, the Governor and the DGS have a firm commitment to increasing the participation of DVBEs in state contracting. The BSA accurately points out that thirteen years after the establishment of the program, state departments continue to struggle in obtaining the 3% participation goal. However, as recognized in the BSA's report, many of the above actions recently went into effect. Therefore, it is too early to judge their full effectiveness in increasing participation rates.

The DGS believes that the above actions will result in a significant increase in DVBE participation within the state's contracts. In fact, the DGS believes that the above actions already have had a significant impact on increasing the number of certified firms within the

DVBE program. Over the period of January 1, 2002 through June 17, 2002, the number of certified DVBEs increased from 650 to 815, a 25% increase. The DGS also believes that the actions have helped 18 departments meet the DVBE 3% goal during the 2000/2001 fiscal year compared to only 9 reaching that goal in the previous fiscal year.

The following response only addresses the recommendations that are addressed to the DGS. In general, the actions recommended by the BSA have merit and will be promptly addressed.

RECOMMENDATIONS

CHAPTER 1

RECOMMENDATION # 1: *To ensure DVBE statistics are accurate and meaningful, General Services should require awarding departments to report actual participation and maintain appropriate documentation of statistics, continue its periodic audits of these figures for accuracy, and, if the audits reveal a pattern of inconsistencies or inaccuracies, address the causes in its reporting instructions.*

DGS RESPONSE # 1:

For the first part of this recommendation related to the methodology used in reporting DVBE participation, the DGS has interpreted the statutes governing reporting to provide for participation statistics to be reported based on the value of contracts awarded. Both Public Contract Code Section 10115.5 and Military and Veterans Code Section 999.7 contain language that provides for each awarding department to report on the level of participation by DVBE's in contracts. This has been interpreted by the DGS to mean reporting based on the value of contract awards.

Due to the BSA's conclusion that the term expended should govern reporting, the DGS is reviewing the appropriateness of its current interpretation of the DVBE statutes governing reporting. However, as noted in the BSA's report, a DGS consultant hired to review the DVBE reporting process found that the reporting of actual expenditure data would be an enormously costly process. This consultant visited 28 of the state's largest departments to determine areas for improvement within the state's contract award and associated small business and DVBE participation reporting process. The scope of his review included discussing with department reporting personnel the feasibility of reporting actual expenditure data. Based on the results of those discussions and his own knowledge of the state's procurement and accounting systems, the consultant came to the overall conclusion that DVBE statistics should continue to be reported based on the value of contracts awarded.

As to the issue of requiring departments to maintain documentation of participation statistics, the DGS concurs that maintaining supporting documentation is an important element of an effective system of internal control. To reemphasize this administrative control procedure, the DGS has added an instruction to the new participation report form addressing the necessity of maintaining supporting documentation. The new form is to be used by departments in reporting 2001/2002 fiscal year cumulative participation statistics.

In addition, the DGS will continue to include the audit of the DVBE reporting process within its comprehensive external compliance audit program performed of other state agencies. Further, the results of these audits will be used in identifying areas for possible improvement within the reporting process. It should be noted that DGS' audit staff did provide input on the new DVBE reporting process and form.

RECOMMENDATION # 2: *To ensure that the DVBE program is promoted to the fullest extent possible, General Services should aggressively explore outreach opportunities with the United States Department of Veterans Affairs and organizations such as the American Legion, Disabled American Veterans, and Veterans of Foreign Wars. In particular, General Services should cultivate a clear working relationship with county veteran service officers. It should also maintain complete records of its outreach and set up a system to track effectiveness. For example, General Services could consistently survey newly certified DVBEs to determine how they heard about the program and what convinced them to apply for certification.*

DGS RESPONSE # 2:

The DGS will work with the California DVA to determine the most appropriate party for exploring outreach activities with the organizations referenced in this recommendation. In the past, the DGS has focused its efforts on outreach to small and disabled veteran business enterprises. The DVA may be the most appropriate party to use its relationships with the referenced non-business organizations to assist in increasing DVBE program participation.

It should be noted that the DGS/DVA joint outreach and participation plan that is currently being developed pursuant to Governor's Executive Order D-43-01 has a goal to better address these types of outreach efforts. Specifically, the plan, which is currently in draft form, provides for partnering with DVA veteran service representatives, local county veteran service offices, federal veteran service offices and veteran's affairs medical centers, disabled veteran organizations, small business development centers, professional training area centers, local chamber of commerce, small business communities, and ethnic, racial, and gender type groups.

As to the maintenance of complete records on its outreach, the Office of Small Business and DVBE Outreach and Education has developed procedures which ensure that documentation is maintained on its outreach efforts. Further, the DGS will determine if additional actions are needed to track the effectiveness of its outreach efforts. Currently, the DGS has a process that provides for the tracking of the success of major outreach efforts. These efforts include the tracking of new DVBE applications received based on partnering with federal, state and local entities and on the participation of DGS staff in major outreach events.

The tracking of new applications is one way of determining if the DGS has been successful in reaching DVBEs. However, the best way to measure the success of outreach efforts is the unprecedented growth in the number of certified DVBEs over the last six months. As noted in the Overview section of this response, the number of certified DVBEs increased 25% over this period.

RECOMMENDATION # 3: *General Services and Veterans Affairs should continue to develop their joint plan for improving the DVBE program, finalizing and implementing it as soon as possible.*

DGS RESPONSE # 3:

The DGS is actively working with the DVA in developing the previously discussed DVBE outreach and participation plan. Currently, the draft plan is being reviewed for any necessary revisions. It is foreseen that the final plan will clearly address roles and responsibilities in four key areas: outreach and certification; contracting opportunities; goal promotion and achievement; and training.

CHAPTER 2

RECOMMENDATION # 1: *To maximize DVBE participation, awarding departments should attempt to use DVBEs as prime contractors instead of viewing them only as subcontractors. Further, the awarding departments should periodically examine the basis of their assumptions behind blanket exemptions for whole categories of contracts to ensure the exemptions are justified.*

DGS RESPONSE # 1:

Current DGS policy and practice actively encourage the use of DVBEs as prime contractors. This encouragement is included in the DGS' outreach program and bid solicitation processes.

It should be noted that the DGS recently sponsored legislation, which was supported and signed by the Governor, that significantly increases opportunities for DVBEs to be the prime contractor on the state's contracts. Specifically, the DGS sponsored AB 737 which amended Government Code Section 14838.5 to allow streamlined procedures to be used in awarding contracts to DVBEs. This amendment was effective on January 1, 2002 and allows a state agency to award contracts with a dollar value of less than \$100,000 to a certified DVBE, as long as the agency obtains price quotations from two or more certified small businesses or DVBEs.

The DGS also has policies and procedures in place that provide for the continual examination of justifications for granting blanket exemption of contract categories from DVBE participation requirements. The policies provide that all contracts include the DVBE participation requirements unless the Director of DGS has granted an exemption from the process.

Typically, each exemption is unique and is based on the specific nature and requirements of the given situation.

RECOMMENDATION # 2: *To ensure that prime contractors make a genuine good-faith effort to find a DVBE, the Legislature should consider requiring awarding departments to follow General Services' policies. General Services should issue regulations on what documentation the awarding departments should require and how they should evaluate that documentation. These standards should include steps to ensure the documentation submitted is accurate. Similarly, General Services should issue regulations on what steps departments should take to ensure contractors meet DVBE program requirements specified in the contracts. These steps might include requiring awarding departments to monitor vendor invoices that detail DVBE participation, or requiring the vendor and DVBE to submit a joint DVBE utilization report.*

DGS RESPONSE # 2:

The DGS will reevaluate its DVBE program regulations to identify areas for potential improvement. This review will include the feasibility of adding provisions addressing the issues presented in the BSA's recommendation.

CONCLUSION

The DGS is firmly committed to effectively and efficiently performing its responsibilities under the DVBE program. As part of its continuing efforts to improve the program, the DGS will take appropriate actions to address the issues presented in the report.

If you need further information or assistance on this issue, please call me at 376-5012.

(Signed by: Clothilde V. Hewlett)

Clothilde V. Hewlett, Interim Director
Department of General Services

COMMENTS

California State Auditor's Comment on the Response From the State and Consumer Services Agency

To provide clarity and perspective, we are commenting on the response to our audit from the State and Consumer Services Agency (agency). The number corresponds to the number in the agency's response.

- On page 16 of our report, we indicated that three of the five state agencies responding to our survey said they were still developing procedures to monitor the Disabled Veteran Business Enterprise program participation levels of their subordinate awarding departments. The agency is not one of those three, and we have added an explicit statement in the text indicating that the agency had finalized its procedures.

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Agency's comments provided as text only.

Business, Transportation and Housing Agency
980 9th Street, Suite 2450
Sacramento, CA 95814-2719

June 20, 2002

Elaine M. Howle
State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

Attached is the Department of Transportation's (Department) response to your draft audit report, *Disabled Veteran Business Enterprise Program: Few Departments That Award Contracts Have Met the Potentially Unreasonable Participation Goal, and Weak Implementation Further Hampers Success* (#2001-127). After reviewing the Department's response, we agree with their approach to work with the Department of General Services (DGS) to develop a comprehensive informational database that will allow the Department to identify contracting and procurement opportunities with the Disabled Veteran Business Enterprises (DVBE) in the State of California.

In February 2001, the Business, Transportation and Housing Agency (Agency) established a comprehensive Small Business and DVBE Program. This program has assisted all the Agency's constituent departments and offices in enhancing their participation goals with DVBEs. Fiscal-year-to-date information indicates that 10 of 13 Agency departments and offices have met or exceeded their DVBE participation goals, and gives the Agency a 3.7% overall participation rate.

Our program has been recognized as a model program at the Agency level by the DGS for two consecutive years. We provide consultation to other state agencies and departments as requested, and have established a partnership with the Department of Veterans Affairs to outreach to potential DVBE vendors.

The Agency will continue to provide to its constituent departments and offices, monitoring and oversight relative to the DVBE program, including sharing best practices and streamlined processes among the departments. Additionally, the Agency will share with the DGS recommendations that are identified to enhance program delivery of the DVBE Program.

Elaine M. Howle
June 20, 2002
Page 2

Thank you for the opportunity to respond to your draft audit report. If you need additional information, please do not hesitate to contact me, or Michael Tritz, Chief of the Agency's Office of Internal Audits, at (916) 324-7517.

Sincerely,

(Signed by: Maria Contreras-Sweet)

MARIA CONTRERAS-SWEET
Secretary

Attachment

Department of Transportation
Office of the Director
1120 N Street
P.O. Box 942873
Sacramento, CA 94273-0001

June 19, 2002

Maria Contreras-Sweet, Secretary
Business, Transportation and Housing Agency
980 – 9th Street, Suite 2450
Sacramento, CA 95814

Dear Secretary Contreras-Sweet:

I am pleased to provide our response to the Bureau of State Audit's (BSA) draft audit report titled "Disabled Veteran Business Enterprise Program: Few Departments That Award Contracts Have Met the Potentially Unreasonable Participation Goal, and Weak Implementation of the Program Further Hampers Success." The report contained six chapters, however the Department of Transportation (Department) was requested to respond to only one (Chapter 2).

As discussed in the draft audit report, State departments, including the Department, exempt a significant number of contracts, potentially limiting their ability to maximize Disabled Veteran Business Enterprise (DVBE) participation rates. In addition, the draft report noted that some awarding departments do not ensure DVBEs are actually used. The BSA is recommending that, in order to maximize DVBE participation, awarding departments should attempt to use DVBEs as prime contractors instead of viewing them only as subcontractors. Further, the awarding departments should periodically examine the basis of their assumptions behind blanket exemptions for whole categories of contracts to ensure the exemptions are justified.

The Department agrees to implement the BSA's recommendations and is taking the following corrective actions:

1. The Department will pursue discussions with the Department of General Services to define work category codes and geographical preferences of ready, willing and able DVBEs within the State. This will allow the Department to match subcontracting and prime opportunities with specific DVBEs.
2. The Department will review the criteria and process it uses to establish its exemption list for DVBE contracting opportunities based on the results of number 1 above.
3. The Department will include the results of numbers 1 and 2 above in training materials disseminated to contract managers statewide.
4. The Department will continue to outreach to DVBEs via the DGS Contracts Register and outreach events as they become available.

Maria Contreras-Sweet
June 19, 2002
Page 2

If you have any questions, or require further information, please contact Gerald Long, External Audit Liaison, at (916) 323-7122.

Sincerely,

(Signed by: Jeff Morales)

JEFF MORALES
Director

Agency's comments provided as text only.

Health and Human Services Agency
1600 Ninth Street, Room 460
Sacramento, CA 95814

June 19, 2002

Ms. Elaine M. Howle
State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 65814

Dear Ms. Howle:

Thank you for forwarding for my review and comment a draft copy of the State Audits' report titled "Disabled Veteran Business Enterprise Program: Few Departments That Award Contracts Have Met the Potentially Unreasonable Participation Goal, and Weak Implementation of the Program Further Hampers Success."

Enclosed are the California Health and Human Services Agency (CHHS) and the Department of Health Services' (DHS) individual responses to the draft audit. As indicated in the response letters, CHHS and DHS are in agreement with the reported findings.

Thank you again for sharing the draft copy of your findings and recommendations.

Sincerely,

(Signed by: Grantland Johnson)

GRANTLAND JOHNSON

Enclosure

Health and Human Services Agency
1600 Ninth Street, Room 460
Sacramento, CA 95814

June 20, 2002

Ms. Elaine M. Howle
State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 65814

Dear Ms. Howle:

Thank you for the opportunity to comment on the draft of your recent audit titled "Disabled Veteran Business Enterprise Program: Few Departments That Award Contracts Have Met the Potentially Unreasonable Participation Goal, and Weak Implementation of the Program Further Hampers Success."

The audit found that State Agencies should finalize and implement their Disabled Veteran Business Enterprise (DVBE) Program plans, monitor awarding departments' report of DVBE statistics and, for those failing to meet the 3 percent goal, monitor their efforts to improve DVBE participation.

The California Health & Human Services Agency agrees that improvements in the development of DVBE plans and compliance monitoring can be initiated. In August 2002, the CHHS will request that each department report their achieved DVBE contract participation information as of June 30, 2002. Departments that fail to meet the 3 percent level will be required to state the reasons why the participation level was not achieved and submit a DVBE contract participation improvement plan. In accordance with Executive Order D-43-01, the CHHS will forward to the Governor's Office the reports from those departments who failed to meet the desired participation level no later than December 1, 2002.

The CHHS will implement the above process as an annual process to monitor department DVBE participation rates and, for those that fail to meet the 3 percent goal, monitor their efforts to improve DVBE participation. In addition, this annual process will help ensure that all CHHS departments annually compile and submit their DVBE contract participation information to the appropriate entities.

Ms. Elaine M. Howle
Page Two
June 20, 2002

The California Health & Human Services Agency recognizes the importance of the DVBE program and expects the implementation of these recommended improvements to enhance its effectiveness. If you have additional questions or concerns, please feel free to contact Jim Rostron, Assistant Secretary and Small Business Liaison at (916) 654-3454. Again, thank you for the opportunity to comment.

Sincerely,

(Signed by: Grantland Johnson)

GRANTLAND JOHNSON
Secretary

Department of Health Services
714 P Street
P.O. Box 942732
Sacramento, CA 94234-7320

June 20, 2002

Ms. Elaine M. Howle
State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 65814

Dear Ms. Howle:

Thank you for the opportunity to comment on the draft of your recent audit titled "Disabled Veteran Business Enterprise Program: Few Departments That Award Contracts Have Met the Potentially Unreasonable Participation Goal, and Weak Implementation of the Program Further Hampers Success." The Department of Health Services (DHS) agrees with the factual findings of the audit.

The Department agrees that improvements can be initiated in the following portions of its Disabled Veteran Business Enterprise (DVBE) program:

1. Retention of summarized source documents to substantiate participation numbers reported;
2. Tracking of exemption dollars;
3. Random verification of bidder solicitations during the procurement/selection process;
4. Expanded monitoring activities (i.e., notification of selected DVBEs and random contacts with DVBEs identified to confirm service usage, etc.); and
5. Examination of the criteria used to grant individual exemptions from DVBE participation.

As was indicated in the audit report, the Department exempts all contracts under \$10,000. This threshold for DVBE participation was established in the original law that enacted the DVBE program (AB 835, Chapter 567, Statutes of 1991). Following the dissolution of the original DVBE program and implementation of statutes that shifted DVBE program responsibility to individual departments, DHS opted to retain the historical \$10,000 threshold established for DVBE participation to avoid a disruption in departmental contract processes.

Ms. Elaine M. Howle
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June 20, 2002

Even though the Department exempts a high percentage of its service contracts, the majority of individual exemptions granted by the Department occur following a sound analysis of service needs and requirements for performance outlined in the scope of work for each agreement and/or the competitive bidding document (if applicable).

In addition to the exemptions outlined in the State Contracting Manual for government and public entities, the Department grants exemptions for direct service/subvention contracts and grants exemptions for personal and consultant service contracts that meet any of the following criteria:

- a. Labor intensive services requiring the expertise of an individual or the unique skills, knowledge, and abilities of the contractor and its staff;
- b. Performance will occur outside of California and mandating the use of California firms is not practical;
- c. Infringement of proprietary / copyright issues (i.e., patented equipment maintenance, processes, or parts); and
- d. All services valued between \$5,000 and \$9,999.

The Department recognizes the importance of the DVBE program and expects the implementation of these recommended improvements to enhance its effectiveness. If you have additional questions or concerns, please feel free to contact Mark Hutchinson, Deputy Director of Administration at (916) 657-3054. Again, thank you for the opportunity to comment.

Sincerely,

(Signed by: Diana M. Bontá)

Diana M. Bontá, R.N., Dr.P.H.
Director

cc: Grantland Johnson
Secretary, California Health and Human Services Agency
1600 Ninth Street, Room 460
Sacramento, CA 95814

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Agency's comments provided as text only.

State Board of Equalization
450 N Street, MIC: 73
P.O. Box 942879
Sacramento, CA 94279-0073

June 19, 2002

Ms. Elaine M. Howle, State Auditor*
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

Thank you for the opportunity to review and comment on the redacted draft audit report titled "Disabled Veteran Business Enterprise Program: Few Departments That Award Contracts Have Met the Potentially Unreasonable Participation Goal, and Weak Implementation of the Program Further Hampers Success".

While the Board of Equalization (BOE) generally agrees with the draft audit findings and recommendations, I wish to respectfully disagree with one statement in the draft report. In Chapter 2, after a discussion of the BOE Contract Unit's approach to including participation goals in contracts, the report states, "Despite Equalization's success while exempting many contracts, we believe this practice makes attaining the participation goal more difficult by requiring increased participation from non-exempt expenditures." The Contract Unit's approach is to evaluate on a contract-by-contract basis the likelihood of achieving DVBE participation if participation goals were included in a solicitation. Contrary to the report statement, I do not believe the Contract Unit's approach makes attaining the goal more difficult. Since the measure of success is contract awards to DVBEs, it would be pointless, and cause needless expense to potential contractors and the State for the Contract Unit to include participation goals in a solicitation they have determined would most likely result in a good-faith effort by potential contractors. In the end, to be successful, the same amount of otherwise non-exempt expenditures would need to be awarded to DVBEs.

The BOE agrees that the DVBE Program is flawed. However, we take pride in being one of the few departments that routinely complies with the statutory requirements. If you need additional information, or wish to discuss these comments, please contact Robert Sherburne, Manager, Contract & Procurement Section, at 445-2068.

Sincerely,

(Signed by: James E. Speed)

James E. Speed
Executive Director

* California State Auditor's comment appears on page 71.

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COMMENTS

California State Auditor's Comment on the Response From the State Board of Equalization

To provide clarity and perspective, we are commenting on the response to our audit from the Board of Equalization (Equalization). The number corresponds to the number in Equalization's response.

- We believe Equalization has misunderstood the intent of our original text. We did not intend to criticize Equalization's practice. As noted on page 34, awarding departments that exempt contracts from Disabled Veteran Business Enterprise program participation are required to increase this participation on other contracts to reach the overall 3 percent goal. We have indicated that, unlike some other departments, Equalization has met the 3 percent goal even while exempting many contracts. We have also included Equalization's explanation of its practice, which was provided to us in writing. To clarify our intent, we have amended the sentence that Equalization's executive director addresses to read: "Despite Equalization's success while exempting many contracts, we believe that, for most awarding departments, this practice would make attaining the participation goal more difficult."

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Agency's comments provided as text only.

Department of Veterans Affairs
1227 O Street, Room 300
Sacramento, California 95814

June 19, 2002

Ms. Elaine M. Howle
State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, California 95814

Dear Ms. Howle:

Thank you for the opportunity to review and comment on the Bureau of State Audits draft report 2001-127, titled "Disabled Veterans Business Enterprise Program: Few Departments That Award Contracts Have Met the Potentially Unreasonable Participation Goal." We concur with the findings and recommendations set forth in the report. The California Department of Veterans Affairs (CDVA), at the request of the Undersecretary of the State and Consumer Services Agency, assumed the leadership of the Disabled Veterans Business Enterprise (DVBE) Council, allowing CDVA to identify and confirm many of the issues set forth in the report.

We are currently working closely with the Department of General Services (DGS), Small Business and DVBE Branch staff to develop and implement an outreach program for California veterans. The purpose of the proposed outreach program is to identify and certify veterans and disabled veterans who own businesses. We anticipate it will take several months to complete the necessary planning and implementation.

We also concur with the Auditors June 18, 2002 modified recommendation requesting the Legislature to consider requiring either DGS or CDVA to commission a study on the potential number of DVBE eligible firms in the State. CDVA firmly believes that the continued existence of the DVBE Program depends on the State's pro-active efforts to increase the pool of eligible and certified Disabled Veterans Business Enterprises.

Thank you again for the opportunity to comment on the draft report 2001-127. Please contact Mr. Jack Byrd, CDVA Contract Officer, at (916) 653-2374 or jack.byrd@cdva.ca.gov if you, or your staff, have any questions.

Sincerely,

(Signed by: John Hanretty for)

BRUCE THIESEN
Secretary

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Agency's comments provided as text only.

Youth and Adult Correctional Agency
1100 11th Street, Suite 400
Sacramento, CA 95814

June 18, 2002

Elaine M. Howle
State Auditor
California State Auditor
555 Capitol Mall, Suite 300
Sacramento, California 95814

Dear Ms. Howle:

The Youth and Adult Correctional Agency (YACA) has reviewed your letter dated June 14, 2002, and draft audit report entitled "Disabled Veteran Business Enterprise Program: Few Departments That Award Contracts Have Met the Potentially Unreasonable Participation Goal, and Weak Implementation of the Program Further Hampers Success." We appreciate the opportunity to respond to the draft report.

YACA is pleased that the report recognizes the impact that the limited number of certified disabled veteran business enterprises in the state has had on meeting the three percent participation goal. Given the nature of our mission and our need for specific types of commodities and services, often in remote regions of the state, the limited pool of available DVBEs has posed a significant challenge. Nonetheless, we look to the report's findings as an opportunity to address these obstacles with the outcome of increasing our contracting with certified disabled veteran business enterprises.

YACA is monitoring participation rates and recently issued procedures, which govern the monitoring and reporting of disabled veteran business enterprise participation levels, to its reporting organizations.

If you have any questions concerning our response to the audit report, please contact me at 323-6001.

Sincerely,

(Signed by: Robert Presley)

ROBERT PRESLEY
Secretary

cc: Members of the Legislature
Office of the Lieutenant Governor
Milton Marks Commission on California State
Government Organization and Economy
Department of Finance
Attorney General
State Controller
State Treasurer
Legislative Analyst
Senate Office of Research
California Research Bureau
Capitol Press