

Disabled Veteran Business Enterprise (DVBE) Subcontracting Report Frequently Asked Questions

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1. Which laws or statutes require reporting on DVBE subcontracting activities and defines what needs to be reported?

Military and Veterans Code (MVC) Sections [999.5\(d\)](#), [999.55](#) and [999.7](#), and Government Code (GC) Section [14841](#) require that upon completion of an awarded contract, the prime contractor that entered into a subcontract with a disabled veteran business enterprise to certify information to the awarding department. The statutory requirements listed above are further explained in California Code of Regulations (CCR) Section [1896.78 \(e\)](#), and the [State Contracting Manual \(SCM\) Volume \(Vol\) 2, Chapter 12, Section 1203.1 - Prime Contractor's Certification on DVBE Subcontractors and Payment Withhold](#) (SCM, Vol. 2 – 1203.1).

2. What is (are) the difference(s) between the Prime Contractor's Certification - DVBE Subcontractor Report (STD 817) and the State Department's Contractor DVBE Subcontracting Consolidation Report (DGS PD 810D)?

The STD 817 is provided to prime contractors that have committed to subcontracting a DVBE to perform an element of work for the prime contractor. This form is to be completed by the prime contractor and submitted to the awarding department.

The DGS PD 810D form is to be completed by the awarding department. The department must consolidate the contract and procurement data from every received STD 817 as well as data regarding contracts and procurements with DVBE subcontractors where the prime contractor did not comply with the requirement to submit a STD 817. Once a department has completed their 810D form, they must submit it to the Office of Small Business and Disabled Veteran Business Enterprise Services (OSDS) by Nov. 1.

**** Important **** All departments must submit their DGS PD 810D to OSDS even if they did not receive a STD 817 from the prime contractors. If the department awarded no contracts with DVBE subcontractor participation, then "0" should be entered in the Total Number of Completed Contracts field of the DGS PD 810D and "NA" entered into every field of the first line of the form.

3. When should a department send the STD 817 to prime contractors?

Departments should send the STD 817 to the prime contractors on any contracts or procurements (agreements executed as either a contract or purchase order) that were awarded on or after January 1, 2021, which include DVBE participation/subcontractors.

4. Do I need to download the STD 817 or DGS PD 810D form again, or can I use a copy of the form that was downloaded for a previous fiscal year?

Please always download a new form every year. The STD 817 and DGS PD 810D can be updated multiple times in one calendar year and may be updated again in the future. Downloading new, blank copies of the forms from either the [DVBE Subcontracting webpage](#) or [DGS Forms Directory](#) will ensure that your department is using the most up to date versions.

5. Is the DGS PD 810D completed via FI\$Cal?

No. The DGS PD 810D must be completed via the form that can be downloaded from either the [DVBE Subcontracting webpage](#) or [DGS Forms Directory](#).

6. How do we submit the completed DGS PD 810D?

The DGS PD 810D is submitted by emailing a copy of the completed form to OSDSReports@dgs.ca.gov.

7. When is the DGS PD 810D submission deadline?

The DGS PD 810D must be submitted to OSDS by **Nov. 1**.

8. Are departments required to report more than one fiscal year on their DGS PD 810D?

No. Departments should only report completed contacts or procurements with DVBE subcontractors for the previous fiscal year.

9. Do departments submit the STD 817 they received to OSDS?

No, please only submit the completed DGS PD 810D form to OSDS.

10. Do departments need to submit multiple DGS PD 810Ds every fiscal year?

No. Departments should only be submitting one DGS PD 810D each fiscal year.

11. Do departments need to report all contracts with DVBEs in the DGS PD 810D?

No, departments only need to include completed contracts that included a DVBE subcontractor. Please do not include contracts where the prime contractor was a DVBE unless they also subcontracted out to another DVBE.

12. Do departments need to submit a DGS PD 810D even if they did not have any completed contracts with DVBE subcontractors?

Yes, departments are still required to submit a DGS PD 810D even if they did not have any completed contracts with DVBE subcontractors. If you have no contracts/purchase orders with DVBE subcontractors completed during the fiscal year, please submit a DGS PD 810D form with “NA” entered into every field of the first line of the form.

13. Should departments include multiple year contracts in our DGS PD 810D?

Departments should only list a multiple year contract when the contract end/completion date falls within the reporting fiscal year. Departments should not include any contracts that did not end during the reporting fiscal year.

14. Do departments need to include contracts with small business (SB) subcontractors?

No, unless the small business is dual certified as a DVBE.

15. What do departments enter under the “Total Amount Paid to Prime” column?

Departments should enter the full amount paid by the state to the prime contractor.

**** Important**** Departments should not subtract the amount the prime contractor paid to the subcontractor from the amount that is entered into this field.

16. When are departments supposed to make a withhold?

Withholds are to be made on the final payment when the prime contractor does not submit their STD 817 and/or when their STD 817 shows that the prime contractor did not make all of the payments to which they had committed to the DVBE subcontractor.

17. How is it determined whether or not a prime contractor has met their commitment to the DVBE subcontractor?

To meet their commitment to the DVBE, a prime contractor must have paid the full commitment amount to the DVBE both in terms of total dollar committed AND the percentage of the total contract amount committed.

18. What does “prime contractor must meet the certification requirements” in MVC 999.7 mean?

To meet the certification requirements cited in 999.7, the prime contractor must pay the DVBE subcontractor(s) in full as committed under the contract and submit a complete and accurate 817 form to the contracting department.

19. Can departments request a prime contractor to submit more than one STD 817?

Yes, but only in cases where the same prime contractor was awarded more than one contract and those contracts ended. Departments shall require the prime contractor to submit one STD 817 per each completed contract. DGS OSDS defers to the department to establish that communication or process with prime contractors.

20. When should departments request the prime contractor submit their STD 817?

Prime contractors are required to submit an STD 817 upon completion of a contract and/or before the final invoice whichever comes last.

21. How much should departments withhold from the final payment if a prime contractor does not submit an STD 817 or if their STD 817 shows that they did not meet their commitment to the DVBE subcontractor?

Departments should withhold \$10,000 or the full amount of the final payment, whichever is less.

22. What if a prime contractor never submits their STD 817 even after the department sends a request to cure for their STD 817?

If a prime contractor does not submit their STD 817 at least after 15 calendar days from the department's request for cure then they are not in compliance with the DVBE subcontractor reporting requirements. In cases where the prime is not being compliant, then the department shall permanently deduct \$10,000 from the final payment or the full amount of the final payment, whichever is less.

23. What are departments supposed to put in column "O" of the DGS PD 810D?

Departments should enter any explanation they can provide as to why the prime contractor did not meet their commitment to the DVBE subcontractor. Departments should try to be as specific as possible while also succinct in their explanation.

24. Do departments need to collect information from prime contractors on Leveraged Procurement Agreements (LPA) contracts?

Based on legislative requirements, departments are required to report on the following LPAs:

- LPAs that require a department Request for Offer (RFO)

- California Multiple Award Schedules (CMAS), Master Service Agreements (MSA), Cooperative Agreements, and Software Licensing Program (SLP)
- MSA Certification of Payment Options
- SLP certification of payment Options
- Statewide contracts for big ticket items requiring build out for heavy equipment, such as fire trucks, helicopters, etc.

**Important **

For existing contracts, please follow instructions on the following DGS PD webpages:

[CMAS Certification of Payment Options](#)

[SLP Certification of Payment Options](#)

[Master Agreements Certification of Payment Options](#)

For new contracts, always follow the user instructions for LPAs.

25. How are the other LPAs reported?

All other LPA contracts that committed to using DVBE subcontracting will be reported by DGS:

- DGS' Procurement Division (PD) captures DVBE subcontracting information throughout the term of the contract.
- DGS will use the information to provide an opportunity to cure, if needed.

Note: Always Follow the user instructions for LPAs.

26. Will the State Contracting Manual (SCM) Vol 2 be updated to specify how reporting and withholds apply to the different types of LPAs? SCM, Vol. 2 - 1203.1 currently states that state departments must follow instructions provided in the User Instructions for each individual LPA.

If the LPA's User Instructions have not been revised, awarding departments handling LPA-based procurements should also obtain the STD 817 and have the right to withhold final payment. DGS OSDS will receive the reported STD 817 information for procurements based on LPAs that were processed by DGS.

27. Do contracts resulting from RFOs require departments to obtain an STD 817 from the prime contractor?

Yes, when LPAs include further competition (e.g., Masters and CMAS), the department will handle the new DVBE reporting and withhold duties.

28. Are vendors utilizing LPA agreements required to submit an STD 817? Previous vendors utilizing an LPA agreement have stated that they do not submit the form and report directly to DGS.

See questions 24, 25 and 26.

29. Will DGS complete the STD 817 requirements for contracts such as paper? What about the other LPAs? Cooperative vs. Statewide?

See questions 24, 25 and 26.

Note: Always Follow the User Instructions for LPAs.

30. What should departments do if an incomplete or inaccurate STD 817 is received?

Departments must withhold, then send the prime contractor a cure notice, allowing at least 15 calendar days for remediation, but not more than 30 days to meet the certification and reporting requirements. To review a sample procedure on how to handle an incomplete or inaccurate STD 817, please review the steps found within [SCM, Vol 2 - 1203.1](#).

**** Important **** The cure notice must inform the prime contractor of a potential permanent deduction if the prime refuses to comply.

31. Are there any examples of cure notice letters? Or sample procedures on how to send these out?

Departments should continue using their existing processes for notifying vendors when a final invoice is being disputed and payments are being withheld. Many departments utilize the STD 209 - Invoice Dispute Notification form, which can be pulled from the [DGS Forms Directory](#).

32. Can DGS share how they capture DVBE subcontractor information throughout the contract term in statewide commodity contracts?

The DGS' PD requires prime contractors to submit a monthly report that identifies DVBE subcontracting usage and participation in statewide contracts. If a contract term ends within the reporting period, then DGS' PD compiles the DVBE subcontractor's information on DGS PD 810D and submits the report to OSDS.

33. Do departments enter a withhold amount even if the withhold that was made was ultimately released to the prime contractor after rectifying the issue that resulted in the withhold being made?

Yes, this is important data to include in the 810D report. This shows OSDS that the department is following the proper procedures regarding the withhold and may show

whether a particular prime contractor displays a pattern of not initially meeting their DVBE commitments.

34. How would departments know that the Prime contractor actually paid the subcontractor?

Departments have the authority to request proof of payments from the prime contractor. ([MVC 999.5](#))

35. How do I file a complaint with OSDS about DVBE program abuse?

If you have a complaint that you would like to report regarding the SB/DVBE Program or a certified firm, email: SB.DVBECompliance@dgs.ca.gov.

For more information go to [File Complaint SB/DVBE Program](#).

36. The SCM, Vol. 2 – 1203.1 states that it is the Contract Manager’s responsibility to have records related to the Prime Contractor’s Certification (STD 817). Should this responsibility also be in a department’s contract administrator’s file or any other location as well?

The SCM utilizes the most general known name of the procurement official that monitors the contract for compliance. Each department should already have procedures in place regarding responsibilities for contract management. Departments should continue to follow their respective procedures and revise to ensure responsibilities are clear as needed. The STD 817 and other documentation related to the contract or procurement should be stored and maintained in a way that ensures all levels of compliance.

37. Will a contractor be held further accountable with an established trend of noncompliance?

The withhold becomes a permanent deduction if after the department sends a cure notice to the prime contractor, allowing the 15-30 days, they do not make the remaining payments to the DVBE subcontractor. The department will use existing processes to withhold the funds. Contact your accounting office for processes of nonpayment to contractors.

**** Important **** DGS’ OSDS will review patterns of non-compliance of contractors and may take appropriate steps to initiate a DVBE program abuse case or supplement an existing DVBE program abuse case.

38. The state of California has 45 days to pay the contractor without penalty pursuant to the California Prompt Payment Act. If the department withholds final payment, then the cure notice can go beyond the 45-day threshold, which would cause the

department or the State Controller’s Office to face penalties. Is there anything that allows departments to withhold final payment without penalties?

The state has 45 days to pay an undisputed invoice. The MVC Sections [999.5\(d\)](#), [999.55](#) and [999.7](#), along with Government Code (GC) Section [14841](#) makes reporting DVBE subcontracting information a legal or statutory requirement. Therefore, in general, a contractor does not have a right to the withheld amount and may not assert a Prompt Payment Act claim for failure to comply with these reporting requirements. Departments should consult with their legal and accounting offices to ensure department policies are in compliance with the DVBE subcontractor reporting, the California Prompt Payment Act, and disputes provisions of contracts. ([SCM, Vol 2 - 1203.1](#))

39. Is there a legal ramification if the department fills out the STD 817 information on behalf of prime contractor?

Yes, there can be legal ramifications if the form is filled out for the prime contractor. By law, the STD 817 is to be filled out by the prime accurately and in its entirety prior to submission to the department.

40. What is done with any withholds that are made? Are they awarded to the subcontractor? Are they liquidated?

The process for withholding funds has not changed; departments will continue to follow their current processes and protocols for withholds. Departments’ accounting and/or legal offices should be able to provide additional information.

41. Are contractors aware of these changes and that we can withhold money?

It is the responsibility of awarding departments to include solicitation and contract language and specific payment provisions to describe the requirements including the STD 817 and withholding of money pursuant to [MVC 999.5](#) and [MVC 999.7](#). Specific policy language can also be reviewed within the [SCM, Vol. 2 - 1203.1](#) and at the [DGS DVBE Subcontracting report webpage](#).

42. Is a wet signature required on the forms?

No, the form allows for electronic signatures.

43. Where can I find the Statewide Advocates Directory?

The Statewide Advocates Directory can be found at: [Find a SB/DVBE Advocate](#)

44. Where can departments find more information about the DVBE requirement in the state contracting manual?

Please see [SCM, Vol. 2 – 1203.1](#).

45. Who should departments contact with additional questions regarding the DVBE Subcontracting Report or other DVBE related questions?

For reporting specific questions, please reach out to OSDSReports@dgs.ca.gov.

For DVBE Substitutions and other Compliance Questions, email SB.DVBCompliance@dgs.ca.gov.

For general questions about the SB/DVBE program, email OSDSHelp@dgs.ca.gov.