

SMALL BUSINESS FIRST WAIVER

(Non-Award Justification Form)

— Waiver Completion Instructions —

Who should complete this Form? The responsible requesting party in the department should complete this form to substantiate a non-award to a Small Business (SB) or Disabled Veteran Business Enterprise (DVBE) under circumstances that would typically call for awarding an SB/DVBE. This Form is subject to approval by the delegated Policy Exception Authority, per [BUS-43](#), or their designee at your UC location.

Why is this Form needed? UC policy requires that all applicable non-construction and non-federally funded purchases or contracts $\geq \$10,000$ and $\leq \$250,000$ (excluding tax but including shipping) in annual value be awarded to SB/DVBEs wherever practicable. UC policy requires applicable orders that are not made to SB/DVBEs be documented for audit purposes. Requisitions/POs are the system of record for campus procurement and the supporting documentation must be attached for compliance and audit preparedness. Providing the information in advance helps streamline the procurement process.

What requirements must be met? All non-construction and non-federally funded goods and services $\geq \$10,000$ must be purchased in compliance with the California Public Contract Code (PCC) and UC policies, in this case specifically, the UC *Small Business First* policy. The UC must use its own documented procurement procedures which reflect applicable State laws and regulations, provided that the procurements conform to applicable Federal law and standards. Design and construction procurements and federally funded purchases, whether in part or whole, are exempt from this program, but it is encouraged that the University utilize the *Small Business First* program wherever practicable. (See the [Small Business First program webpage for a full list of exempted purchase categories](#).)

When should this form be completed? This form should be completed when the responsible requesting party must make an award to a non-SB/DVBE where otherwise an award to a SB/DVBE is required under the *Small Business First* policy. ([See exemptions that do not require a Small Business First Waiver](#).) Please note that non-federally funded awards to SB/DVBEs valued $\geq \$100,000$ must be reported in accordance with the Source Selection & Price Reasonableness Instructions found in the [UC Forms & Policies SharePoint portal](#).

Section A: Outlines instructions for completing the *Small Business First* Waiver

Section B: Includes definitions of terms and requirements for the form

Section C: Contains links to policies, regulations and resources.

A. COMPLETING THE FORM

This section outlines basic instructions for completing the form with simple explanations. Terms used below are defined in more fully in Section B – DEFINITIONS.

Instances where the *Small Business First* program may not be feasible, or when contracting with businesses other than a certified SB/DVBE is justified may include, but are not limited to:

- Industries where at least two (2) SBs or two (2) DVBEs are not available; or
- Business needs that dictate requirements that cannot be met by a SB/DVBE.

In these situations, the *Small Business First* Waiver must be approved by the appropriate Policy Exception Authority, or their designee, prior to making a purchase or establishing a contract with a company that is not a SB/DVBE.

All elements of the form must be completed prior to submission for approval. The responsible requesting party in the department should contact their campus [Supplier Diversity Coordinator](#) and/or Procurement/Supply Chain Management team if added support or resources are needed in locating a SB/DVBE to support the scope of work.

I. GENERAL INFORMATION – This section must be completed for every form.

This section collects relevant information on the specific contract or purchase opportunity that is being submitted for one-time exception from the *Small Business First* Program.

Requisition #: to be completed once provided.

Dollar Amount: the estimated value of the purchase or contract for award (excluding tax but including shipping).

Campus Department: the department requesting the good and/or service.

Brief Scope of Work: a brief summary of the scope of work being awarded.

II. WAIVER JUSTIFICATION – This section must be completed for every form.

This section collects details on the reason(s) submitted to justify a waiver from compliance with the *Small Business First* Program.

A. **Portals and systems searched to identify potential SB/DVBES:** select or fill in all portals, systems, other databases or lists searched to identify SB/DVBES that meet the requirements of the scope of work. Some examples may include:

- [Explorer Professional](#): UC has partnered with supplier.io (<https://supplier.io/>) for supplier diversity data enrichment and access to their Explorer Professional platform. This online platform allows UC employees to search across hundreds of councils and agencies nationwide that offer supplier diversity certifications.
- [State of California Cal eProcure system](#): Cal eProcure is California's online marketplace portal designed to allow businesses to sell products and/or services to the State. The portal provides search functionality to identify SB/DVBES that are certified by the State of California.
- See full list of accepted certifications, including links to relevant agency and council databases, on the [UC Small Business First webpage](#).

B. **Relevant UNSPSC, NAICS or other code(s), licenses or keyword(s) used to search for SB/DVBES:** list the primary UNSPSC, NAICS or other code(s), licenses or keywords used to search for SB/DVBES meet the requirements of the scope of work.

- [UNSCSC codes](#): The [United Nations Standard Products and Services Code](#)® (UNSPSC®), managed by GS1 US™ for the UN Development Programme (UNDP), is an open, global, multi-sector standard for efficient, accurate classification of products and services. (See

also the [California Dept. of General Services Procurement Division UNSPSC Guidance Page.](#))

- *NAICS codes:* The [North American Industry Classification System](#) (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.
 - Additional resources available to support supplier searches (either by UNSPSC, NAICS or other code or keyword) can be found on the [UC Procurement Small Business First webpage.](#)
- C. **Reason for Waiver Request:** select the primary reason this waiver is being requested (you may only choose one).
- D. **Justification Narrative:** *Detail below the unique circumstances and/or specifications that support the Reason for Waiver Request selected above:* please include a thorough narrative describing why an award to a non-SB/DVBE must be made (in support of the Reason for Waiver Request previously selected), the steps taken to first find an SB/DVBE to meet the requirements of the scope of work, and any other pertinent information to support a waiver to the *Small Business First* policy.

III. REPRESENTATION – [This section must be completed for every form.](#)

- This form must be signed by the Responsible Requesting Party in the campus department that is authorized to accept responsibility for the information provided in this form as well as funds used for this transaction.
- The Responsible Requesting Party is the Department End User who has received budgeted/awarded funds to support procurement of goods and/or services.
- Please make sure you provide all of the information requested in this section so questions regarding this form may be directed appropriately.

IV. WAIVER APPROVAL – [This section must be completed prior to award.](#)

This form is subject to approval by the delegated Policy Exception Authority, per [BUS-43](#), or their designee at your UC location.

Refer to Section B – “Policy Exception Authority” definition for more details.

B. DEFINITIONS

Please refer to the following definitions for guidance in completing this form.

Disabled Veteran: A veteran of the U.S. military, naval, or air service with a service-connected disability who is a resident of California. To qualify as a veteran with a service-connected disability, the person must be currently declared by the U.S. Department of Veterans Affairs to be 10% or more disabled as a result of service in the armed forces. (California Military and Veterans Code, Article 6,

§999 et seq.)

Disabled Veteran Business Enterprise (DVBE): Business certification offered by the State of California Office of Small Business and DVBE Services (OSDS). To be certified as a DVBE firms must meet the following requirements: the business must be at least 51% owned by one or more disabled veterans; if a limited liability company, the business must be wholly owned by one or more disabled veterans; daily business operations must be managed and controlled by one or more disabled veterans.

Federal Funds: The Federal government awards funds to principal investigators within UC for certain projects/purchases as indicated below. Such funds are governed by:

- *Uniform Guidance (UG)* - Governs transactions that are funded by a federal grant or cooperative agreement, including subawards thereof. Refer to [e-CFR 200.317 to 200.326](#) for details.
- *Federal Acquisition Regulations (FAR)* - Governs transactions that are funded by a federal contract, including subawards thereof.

Non-Federal Funds: Any funds not considered federal or from a federal funding source.

Reasonable Price: What a prudent person would pay for the same or similar goods or services. All statements must be backed up with documentation.

- Need not be the lowest price available but is one which offers the highest total value to the University.
- A price that does not exceed what would be incurred by a prudent person in the conduct of a competitive business.
- Can be established by market test, price or cost analysis, or the experience and judgment of the Procurement/Supply Chain Manager. Such judgment considers total value to the University.
- For transactions above \$100,000, reasonable price is established through formal competitive bid unless they are exempt from bid, in which case, a reasonable price is established via an adequate market test, set by applicable law or regulation, or supported by an appropriate price or cost analysis.
- The following are examples of how to substantiate Price Reasonableness, together with a discount (discount alone is not justifiable), in order of preference:
 1. Price competition - comparison of quotes
 2. UCOP, State, or GSA contract pricing, or comparison with prices under existing contracts
 3. Prior price history with same vendor, same items (include the prior PO number and \$ amount)
 4. Comparison with current, or recent prices for a similar item(s) with another vendor
 5. Market research, catalog or established price list (sales to general public - screen shot ok)

Small: A Small Business is an independently owned and operated concern certified or certifiable as a small business by the California Department of General Services Office of Small Business and DVBE Services (OSDS) or by applicable government agencies, or other recognized certifying agencies or

councils.

Small businesses are generally considered business organizations that are independently owned and operated, not dominant in their field of operation nationally, with principal offices located in the U.S. or its territories, depending on certifying agency, and meet specified size standards to be considered small (these are variable depending on the council or agency offering certification).

- The [Small Business First program page](#) includes a list of accepted certifying agencies and councils.
- The Supplier must be certified as a Small Business prior to final award.
- The University may rely on written representation by the Supplier regarding its status.
- While the funding terms (federal or state) may include specific language about the preferred types of small or diverse businesses to utilize, the overall goal of the UC, State, FAR, and Uniform Guidance is to utilize small businesses to the maximum extent possible. Check with your campus [Supplier Diversity Coordinator](#) if unsure how to proceed.

C. REFERENCES

1. [UC Policy BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management](#)
2. [California Public Contract Code \(PCC\)](#)
3. [UC Sustainable Practices Policy](#)