

DIVISION OF ADMINISTRATIVE SERVICES
OFFICE OF BUSINESS SERVICES
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CDCR CONTRACTING GUIDELINES

5 PERCENT SMALL BUSINESS PREFERENCE

Background

The Small Business Procurement and Contract Act ([Government Code, Section 14835](#)) was enacted in 1973 to afford small businesses the same free enterprise opportunities as their non-small business-certified competitors.

Basic Policy Program: 5% Small Business Preference

State law allows [certified](#) small business (SB) and microbusiness (MB) firms and non-small businesses who subcontract (25% or more) with a certified SB/MB firm to receive a 5% bidding preference on applicable state solicitations. The effect of the preference is to help SBs/MBs be more competitive in the bid process, thereby enhancing state contract awards directly or indirectly to SB/MB. The preference is only used for computation purposes to determine the winning bidder, the contract is awarded at the actual bid amount.

General Rules Relating to the Small Business Preference

- DGS-PD's preference programs for TACPA, EZA, LAMBRA, or the non-SB subcontracting preference cannot displace a direct award to a certified SB.
- In no event shall the SB preference or non-SB subcontracting preference exceed \$50,000 in any single bid.
- In no event shall the combined cost of available preferences exceed \$100,000.
- In the event of a precise tie between a SB/MB and a firm that is SB/MB and DVBE, the award shall be made to the firm that is SB/MB and DVBE per GC section 14838(f).
- A large business (non-small business) may subcontract 25% or more of the scope of work to receive the 5% preference.
- Exception: The SB preference is not applicable when the solicitation is being conducted using the "SB/DVBE Option" procurement approach or if the acquisition is less than \$5,000.00 and price has been documented to be fair and reasonable.
- The SB preference applies for competitive solicitations regardless of the solicitation format (RFQ, IFB, RFP) or dollar value with few exceptions.

- Combined bid preferences (SB, TACPA, LAMBRA, EZA and/or recycled) may not exceed 15% or \$100,000.00 whichever is less.

How to Apply the 5% Preference

Step 1:

Calculate 5% of the low net non-small business bid.

Note:

"Net non-small business bid" is the value of the offer excluding sales and use tax, finance charges, postage and handling charges. Shipping charges are also excluded from the net cost unless the shipping charge is included in the evaluation such as FOB Origin, Freight Collect or FOB Destination.

Step 2:

Subtract this amount from the low net certified small business bid.

Step 3:

Apply the results of Step 2 as follows:

If the certified small business bid is ...	Then award is to the ...
Lower than the non-small business bid	Certified small business.
Higher than the non-small business bid	Non-small business.

Note:

Applying the small business preference formula is for evaluation purposes only and does not change the actual bids offered by any suppliers.

Step 4:

Document the procurement file in sufficient detail to support the award.

Step 5:

Documenting the file includes recording the small business preference calculations:

Example:			
Supplier A Non-small business		Supplier B Certified small business	
Low Net Bid	\$12,500.00	Net Bid	\$13,000.00
Preference factor	X .05		- 625.00
	\$ 625.00		\$12,375.00