

## SERVICE-DISABLED VETERAN-OWNED BUSINESS (SDVOB) REQUIREMENTS FOR SOLICITATIONS

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### Participation Opportunities for New York State Certified Service-Disabled Veteran-Owned Businesses

- A. Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOB”), thereby further integrating such businesses into New York State’s economy. RGR TA recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of RGR TA contracts.
- B. In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

#### **1.1. Contract Goals**

- A. Unless indicated otherwise on the Cover Page of the Solicitation, RGR TA hereby establishes an overall goal of 6% for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the VENDOR should reference the directory of New York State Certified SDVOBs found at: <https://ogs.ny.gov/veterans/>.
- B. Questions regarding compliance with SDVOB participation goals should be directed to the Procurement Officer identified in the solicitation. Additionally, following Contract execution, VENDOR is encouraged to contact the Office of General Services’ Division of Service-Disabled Veterans’ Business Development at 518-474-2015 or [VeteransDevelopment@ogs.ny.gov](mailto:VeteransDevelopment@ogs.ny.gov) to discuss additional methods of maximizing participation by SDVOBs on the CONTRACT.
- C. VENDOR must document “good-faith efforts” to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the CONTRACT (see Required Good-Faith Efforts clause below).

#### **1.2. SDVOB Utilization Plan**

- A. In accordance with 9 NYCRR § 252.2(i), VENDORS are required to submit a completed SDVOB Utilization Plan on with their response to the Solicitation. An SDVOB Utilization Plan Form is enclosed with this solicitation.
- B. The Utilization Plan shall list the SDVOBs that the VENDOR intends to use to perform the CONTRACT, a description of the work that the VENDOR intends the SDVOB to perform to meet the goals on the CONTRACT, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of CONTRACT work the SDVOB will perform. By signing the Utilization Plan, the VENDOR acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the CONTRACT must be reported on a revised SDVOB Utilization Plan and submitted to RGR TA.
- C. RGR TA will review the submitted SDVOB Utilization Plan and advise the VENDOR of RGR TA acceptance or issue a notice of deficiency within twenty (20) days of receipt.

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- D. If a notice of deficiency is issued, VENDOR agrees that it shall respond to the notice of deficiency, within seven (7) business days of receipt, by submitting to RGRTA a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by RGRTA to be inadequate, RGRTA shall notify the VENDOR and direct the VENDOR to submit, within five business days of notification by RGRTA, a request for a partial or total waiver of SDVOB participation goals on SDVOB 200. Failure to file the waiver form in a timely manner may be grounds for disqualification of the response to the Solicitation.
- E. RGRTA may disqualify a VENDOR's response to solicitation as being non-responsive under the following circumstances:
  - a. If a VENDOR fails to submit an SDVOB Utilization Plan;
  - b. If a VENDOR fails to submit a written remedy to a notice of deficiency;
  - c. If a VENDOR fails to submit a request for waiver; or
  - d. If RGRTA determines that the VENDOR has failed to document good-faith efforts.
- F. If awarded a Contract, VENDOR certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the CONTRACT pursuant to the prescribed SDVOB contract goals set forth above.
- G. VENDOR further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the CONTRACT. Upon the occurrence of such a material breach, RGRTA shall be entitled to any remedy provided herein, including but not limited to, a finding of VENDOR non-responsibility.

### **1.3. Request for Waiver**

- A. Prior to submission of a request for a partial or total waiver, the VENDOR shall speak to the Procurement Officer identified in the Solicitation for guidance.
- B. In accordance with 9 NYCRR § 252.2(m), a VENDOR that is able to document good-faith efforts to meet the goal requirements, as set forth in clause 4 below, may submit a request for a partial or total waiver on the enclosed SDVOB Waiver Form, accompanied by supporting documentation. A VENDOR may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by RGRTA at that time, the provisions of clauses 1.2 (C), (D) & (E) will apply. If the documentation included with the VENDOR's waiver request is complete, RGRTA shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.
- C. VENDOR shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the CONTRACT. Requests for a partial or total waiver of established goal requirements made subsequent to contract award may be made at any time during the term of the CONTRACT to RGRTA, but must be made no later than prior to the submission of a request for final payment on the CONTRACT.
- D. If RGRTA, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101) determines that VENDOR is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, RGRTA may issue a notice of deficiency to the VENDOR. The VENDOR must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.
- E. Waiver requests should be sent to the Procurement Officer identified in the Solicitation.

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### **1.4. Required Good-Faith Efforts**

- A. In accordance with 9 NYCRR § 252.2(n), VENDORS must document their good-faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good-faith efforts shall include, but not be limited to, the following:
  - a. Copies of solicitations to SDVOBs and any responses thereto.
  - b. Explanation of the specific reasons each SDVOB that responded to VENDORS solicitation was not selected.
  - c. Dates of any pre-bid, pre-award or other meetings attended by VENDOR, if any, scheduled by RGRTA with certified SDVOBs whom RGRTA determined were capable of fulfilling the SDVOB goals set in the CONTRACT.
  - d. Information describing the specific steps undertaken to reasonably structure the CONTRACT scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.
  - e. Other information deemed relevant to the waiver request.

### **1.5. Monthly SDVOB CONTRACTOR Compliance Report**

- A. In accordance with 9 NYCRR § 252.2(q), VENDOR is required to report Monthly SDVOB CONTRACTOR Compliance to RGRTA during the term of the CONTRACT for the preceding month's activity, documenting progress made towards achieving the CONTRACT SDVOB goals. This information must be submitted using the form provided by RGRTA and should be completed by the VENDOR and submitted to the designated contact at RGRTA, by the 5th day of each month during the term of the CONTRACT, for the preceding month's activity to the designated contact at RGRTA.

### **1.6. Breach of Contract and Damages**

- A. In accordance with 9 NYCRR § 252.2(s), any VENDOR found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the CONTRACT, shall be found to have breached the CONTRACT and VENDOR shall pay damages as set forth therein.