

California Department of Forestry and Fire Protection

Information and Questionnaire for Vendors Seeking Emergency Equipment Rental Agreements with CDF (7700)

(No. 32 September 2003)

The purpose of this Information Sheet and Questionnaire is:

1. to clarify for all equipment vendors the documentation required by CDF relative to equipment ownership, lease agreements, registration and insurance.
2. to provide information about requirements of the State of California's Disabled Veteran Business Enterprise (DVBE) Program, including definition of a "Commercially Useful Function" and Ownership, Management and Control Requirements for Qualifying Disabled Veteran(s).
3. to provide a CDF Vendor Questionnaire to be completed by all equipment vendors so that CDF can determine whether or not the vendor is or will be in compliance with CDF hired equipment policies.

CDF Requirements for Emergency Equipment Rental Agreement (EERA):

CDF policy section 3833.1.1 states that CDF does not hire or rent equipment from equipment brokers. Therefore, every vendor that enters into an EERA with CDF must own equipment hired or rented by CDF, or the equipment must be paid for and controlled by the vendor under a written lease or purchase agreement. CDF considers a vendor to be an equipment broker when the vendor does not have at least 51-percent ownership of the equipment (quantity and value) listed on the EERA.

Equipment that is owned by the vendor or under a purchase agreement must be registered in the name of the vendor and insured by the vendor. The vendor must control and pay for the use of equipment that is not owned by the vendor or registered in the name of the vendor under a written lease agreement. The written agreement must include terms normally included in an equipment lease including provisions for insurance by the vendor or the lessor. When insurance is provided by the lessor, the certificate of insurance must name the vendor and the State of California as also insured.

Equipment operator(s) furnished by a vendor may be owners, officers, or employees of the vendor, independent contractors working for the vendor, or operators provided to the vendor under an equipment lease. The prime vendor must report payments for services provided by an independent contractor to the Internal Revenue Service (IRS) on a Form 1099-MISC. All vehicle operators must have the appropriate license and certificates required by the California Department of Motor Vehicles to operate the class of vehicle(s) listed on the EERA.

Definitions of Terms Used in the Vendor Questionnaire:

“Commercially Useful Function”: California Code of Regulations, Title 2, § 1896.61(l):

The term "DVBE contractor, subcontractor or supplier" means any person or entity that satisfies the ownership (or management) and control requirements of Section 1896.61(f); is certified in accordance with Section 1896.70; and provides services or goods that contribute to the fulfillment of the contract requirements by performing a commercially useful function. A DVBE contractor, subcontractor or supplier is considered performing a commercially useful function when it meets the following criteria:

1. The business concern is: responsible for the execution of a distinct element of the work of the contract; carrying out its obligation by actually performing, managing or supervising the work involved; and performing work that is normal for its business services and functions, and
2. The business concern is not further subcontracting a greater portion of the work than would be expected by normal industry practices.

Ownership and Management and Control Requirements for Qualifying Disabled Veteran(s):

Military and Veterans Code Section 999(g): To meet certification requirements and retain eligibility, one or more disabled veterans must own at least 51% of the business.

Additionally, daily business operations must be managed and controlled by one or more disabled veterans (the disabled veteran(s) who manages and controls the business is not required to be the disabled veteran business owner(s).

California Code of Regulations, Title 2, § 1896.61(f): To meet certification requirements and retain eligibility, the qualifying disabled veteran(s) must maintain management and operational control of the business. To have operational control, the qualifying disabled veteran(s) must demonstrate that he/she independently makes basic decisions in daily operations. Must include an active role in controlling the business. No formal or informal restrictions may exist to limit voting power or control of the business by the qualifying disabled veteran(s).

The qualifying disabled veteran(s) controls the operation of the firm in the following areas:

1. Financial
2. Bonding
3. Supervision-direct responsibility for subordinates
4. Work Force-direct responsibility for subordinates or subcontractors
5. Equipment
6. Materials
7. Facilities (office/yard)

The qualifying disabled veteran(s) must be personally responsible for at least one of the following:

1. Negotiations, execution and signature of contracts.
2. Execution (signature) of financial transactions and agreements (credit, banking, bonding).

Questionnaire for Vendors Seeking Emergency Equipment Rental Agreements with CDF

All vendors applying for an Emergency Equipment Rental Agreement (EERA) with CDF must provide written answers to the following questions. Supporting documentation is required where indicated. Return the completed questionnaire and supporting documentation to the CDF representative who is preparing your agreement. The EERA will not be signed by CDF until the completed questionnaire has been received.

No disclosure of personal information will be made unless permissible under Article 6, Section 1798.24 of the Information Practices Act (IPA) or 1977 (Civil Code Sections 1798 et seq.). Each individual has the right, upon request and proper identification, to inspect all personal information in any record maintained on the individual by CDF. Any inquiries on information maintenance should be directed to the IPA Officer of the Department of Forestry and Fire Protection.

CDF Review of EERAs:

Assuming that the equipment and operator requirements are met, upon completion of the EERA, CDF will list the vendor in the unit Emergency Resources Directory. Water tender and bulldozer vendors will be listed as either a Fire Ready group or Support group water tender or bulldozer vendor, and their name will be placed on the appropriate rotational hiring list.

A copy of the EERA, the completed CDF Vendor Questionnaire, and any supporting documentation will be retained in a vendor file at the local CDF unit headquarters. For DVBEs, the CDF Business Services Section will contact the Department of General Services' (DGS) Office of Small Business and DVBE Certification (OSDC) in order to verify the vendor's current DVBE certification status.

- If DGS/OSDC verifies that the vendor is a **certified** Small Business or DVBE, CDF will include the CSB/DVBE on its Statewide CSB/Disabled Veteran List for water tenders and/or bulldozers.
- IF DGS/OSDC reports that the vendor's CSB/DVBE certification status is "**expired, denied or revoked,**" CDF will list the vendor as a non-CSB/DVBE water tender and/or bulldozer vendor.
- If DGS/OSDC reports that the vendor's application for CSB/DVBE certification is in "**pending status**", CDF will request that DGS/OSDC process the vendor's application within 30 workdays and that CDF be notified of the outcome upon completion of its determination of eligibility for certification.
 - If the application was complete upon submission and the DGS/OSDC determines that the vendor meets certification requirements, then the effective date of CSB/DVBE certification will be the submission date of the certification application.
 - If the application is a renewal for a DVBE whose certification recently expired, CDF will not remove the CSB/DVBE from its Statewide CSB/Disabled Veteran List for water tenders and/or bulldozers until the DGS/OSDC determines if there will be a break in certification. There will be no break in certification if the renewal

was complete and received prior to expiration, and if the DGS/OSDC determines that the CSB/DVBE continues to meet certification requirements based on the submitted renewal.

Note: CSB/DVBE's are required to notify CDF immediately should their CSB/DVBE certification status change so that CDF can add or delete the CSB/DVBE as appropriate on its Statewide CSB/Disabled Veteran List for water tenders and/or bulldozers.

Vendor Name: _____

Mailing Address _____

Telephone Number: _____

CSB/DVBE Certification Reference #: _____
(Issued by DGS/OSDC)

Please answer each of the following questions. If additional space is needed to answer a question, please continue on the reverse side or on a separate piece of paper, and indicate the number of the question to which the answer applies..

A. Requirement for Control of Equipment Under Agreement or Hire to CDF:

CDF does not hire or rent equipment from equipment brokers (policy section 3833.1.1). Therefore, a vendor or firm that enters into an Emergency Equipment Rental Agreement (EERA) with CDF must own the equipment hired or rented by CDF, or the equipment must be paid for and controlled by the vendor under the terms of a written lease or purchase agreement (3833.2.5.9).

1. What equipment does the vendor own, register, and insure? (Provide copies of vehicle registration, or other proof of ownership (such as a bill of sale), and proof of insurance in the Vendor Name listed above.)

2. What equipment does the vendor lease? (Provide a copy of all equipment leases to show payment for and control of the equipment by the vendor, and proof of insurance by either the vendor or the lessor. Equipment that is not registered in the name of the vendor or owned by the vendor must be controlled and paid for by the vendor under a written agreement. All equipment leases must be signed and dated by both parties and

must include terms commonly found in an equipment lease, such as term of the agreement, list of equipment, equipment rates, labor rates, limitations on use and control of the equipment, and responsibility for maintenance and repair. Proof of insurance by a lessor must include a certificate of insurance naming the vendor and the State of California as also insured.)

3. If the equipment is leased, what is the hourly rate paid by the vendor for leased equipment? (Provide a copy of all lease agreements or other documentation to confirm the hourly rate.)

4. If operators are provided with the leased equipment, what is the hourly rate paid by the vendor for operators provided by the owner of the equipment? If operators are independent contractors, what is the hourly rate paid to independent contractors? (Provide a copy of all lease agreements or other documentation to confirm the hourly rate(s) paid for operators under an equipment lease or to independent contractors.)

5. If you rent/lease equipment, or pay independent contractors, you are paying a subcontractor. What percentage of the work (equipment or operators) is subcontracted? (Divide the amount that your business has paid or will pay to subcontractors (equipment lessors or independent contractors) by the amount your business has received or will receive from CDF. If your business does not own any equipment and does not have any employees, you must enter 100% subcontracted.) CDF considers a vendor to be an equipment broker when the vendor does not have at least 51-percent ownership of the equipment (quantity and value) listed on the EERA.

6. List the name(s) of all operators below that will be provided by the vendor. For each operator, place an "X" in the column to indicate if they are an owner or officer, an employee, an independent contractor, or provided under an equipment lease. Also, indicate if the operator is a qualifying disabled veteran for the DVBE.

Operator's Name	Owner or Officer	Employee	Independent Contractor	Provided Under Equipment Lease	Qualifying Disabled Veteran

Note: All vehicle operators must be licensed to operate the class of vehicle(s) listed on the EERA. Payments for services provided to the vendor by an independent contractor must be reported to the Internal Revenue Service (IRS) by the vendor on a Form 1099-MISC. The vendor is required by IRS regulations to keep copies of these forms.

7. If you indicated in Question 6 above that an independent contractor operator(s) provides service to the vendor, please provide copies to CDF of Forms 1099-Misc as submitted to the IRS.

B. Questions 8 and 9 are for DVBEs only to confirm ownership of the business and the degree of management and control of the business performed by the qualifying disabled veteran(s):

8. How does the qualifying disabled veteran(s) maintain management and operational control of the business? For each qualifying disabled veteran, list their name, ownership title, percentage of ownership, and specify the activities he/she performs, manages, or supervises.

9. When CDF calls the DVBE to provide equipment and/or operators, does the call go to a qualifying disabled veteran? Yes ___ No ___
Describe how your business responds to a call from CDF. Specify who is called and what action(s) they take to provide equipment and operators.

CDF requires the original signature of a business owner or officer and one qualifying disabled veteran when the vendor is also a DVBE. A qualifying disabled veteran may sign on both lines if applicable. Signatory (signatories) hereby certify under penalty of perjury under the laws of the State of California that all information provided herein is truthful and accurate.

Owner/Officer's Original Signature

Date

Printed Name of Owner/Officer

Qualifying Disabled Veteran's Original Signature

Date

Printed Name of Qualifying Disabled Veteran