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		<input type="checkbox"/> CCR Title 24 <input type="checkbox"/> Design <input checked="" type="checkbox"/> Construction <input type="checkbox"/> Inspection	
Bulletin: 2023 Construction General Condition Legislative Updates			
Effective Date: 3/3/2023			
From: Construction Management			

Overview

The Contract General Conditions (CGCs) and Construction Management Policies have been updated to align with recent applicable legislation which are summarized below and attached. Note that there will be a webinar scheduled to review the policy and insurance updates.

AB 230 ('19-'20) – Proof of Disabled Veteran Business Enterprise (DVBE) Payments

Law - Requires the prime contractor to certify that all payments have been made to DVBEs and to provide proof of payments to the awarding entity.

CGC Update - Prime contractor must collect and submit notarized final unconditional waivers from each DVBE subcontractor, service provider, supplier, manufacturer, and/or other vendor type.

Policy Update - Requires the campus to collect notarized final unconditional waivers from each DVBE subcontractor, service provider, supplier, manufacturer, and/or other vendor type prior to releasing retention and \$10,000 withholding pursuant to SB 588 (below).

SB 588 ('19-'20) - \$10k Proof of Payment Penalty

Law

The awarding department must withhold \$10,000 from remaining payments, or the full payment if less than ten thousand dollars (\$10,000), until proof of final payments to DVBEs are received and must permanently deduct the withheld amount if not received within 15-30 days upon request.

CGC Update

If the contractor fails to comply with the certification requirement, after notice, shall be allowed to cure the defect. If after 30 calendar days from the date of notice, the contractor refuses to comply with the certification requirements, the Trustees shall permanently deduct ten thousand dollars (\$10,000) from the final payment, or the full payment if less than ten thousand dollars (\$10,000).

Policy Update

An amount equivalent to the estimated maximum DVBE sanctions plus ten thousand dollars (\$10,000) shall be withheld from final payment until the final utilization summary reports and proof of payments to DVBEs have been received.

AB 1365 ('19-'20) - DVBE 6-Year Document Retention

Law

An awarding department shall maintain all records of the information provided by the prime contractor pursuant to Military and Veterans Code section 999.5 and shall establish appropriate review procedures for those records to ensure the accuracy and completeness of the award amounts and paid amounts reported. The records shall be maintained in a manner that facilitates access and review by external auditors. Records collected pursuant to this section shall be retained for a minimum of six years after collection.

CGC Update

CGCs already require submission of DVBE certification documents and utilization reports. Pursuant to AB 230, proof of payments will also be required to be submitted.

Policy Update

In accordance with Military and Veterans Code section 999.55, the Trustees shall keep DVBE certification records, utilization reports, and proof of payments to DVBEs for a minimum of six (6) years in a manner that facilitates access and review by external auditors, and each campus shall file a DVBE Subcontracting Consolidation Report (STD810D) annually to DGS, reporting by November 1.

AB 137 ('21-'22) – Buy Clean California Act Updates

Law

Maximum acceptable Global Warming Potential (GWP) limits have been published for the previous identified materials which may not be procured until Environmental Product Declarations (EPDs) have been submitted indicating that that materials do not exceed the GWP limits.

CGC Update

Contractor shall not purchase any Eligible Materials on the Project until Contractor submits a CSU Eligible Material EPD Intake Form which demonstrates that the material complies with any existing Eligible Material Standards and this Article.

Policy Update

For projects over \$10M with bid opening dates after July 1, 2022, the Trustees shall collect and verify EPDs from Design-Builder for materials or products subject to the Buy Clean California Act.

Insurance CGC Updates

Updates to sections of the insurance sections have been made to bring the CGCs current with updates to the OCIP & BRIP programs. These changes include directions to the Contractor on immediate response for a BRIP incident, revisions to the deductibles for General Liability claims in the OCIP, and revisions to the levels of Professional Liability coverage.

Attachments: [Contract General Conditions for all delivery methods with all changed highlighted](#),
Policy excerpts with changes highlighted (Attachment A)

Applicability: All new construction projects advertised after the publish date of this bulletin.

Attachment A - Policy Updates

All changes are highlighted in **GREEN**.

9834.02 VERIFICATION OF DISABLED VETERAN BUSINESS ENTERPRISES PARTICIPATION AND PAYMENT

At end of project and before Trustees' release of all retention, Contractor must submit a Prime Contractor's DVBE Subcontracting Activity Report (DVBE Subcontracting Report (STD810p)) to the Trustees, certifying the following:

1. the total amount Contractor received from the Trustees under the Contract.
2. the name and address of the DVBE(s) that participated in the performance of the Contract.
3. the amount each DVBE received from the Contractor.
4. that all payments under the Contract have been made to the DVBEs; and
5. the actual percentage of DVBE participation that was achieved for this Contract.

In accordance with Military and Veterans Code section 999.5, the Trustees shall collect proof that all payments under the contract have been made to DVBEs. Proof shall be comprised of either unconditional waivers and release on final payment or affidavits. The waivers or affidavits shall indicate the total payment amount each DVBE received on the project and shall include a notarized signature from the owner or delegated officer of the DVBE.

An amount equivalent to the estimated maximum DVBE sanctions plus ten thousand dollars (\$10,000) shall be withheld from final payment until the final utilization summary and proof of payments have been received.

If the Contractor fails to comply with the certification requirement, after notice, shall be allowed to cure the defect. If after thirty (30) calendar days from the date of notice, the prime contractor refuses to comply with the payment certification requirements, the Trustees shall permanently deduct ten thousand dollars (\$10,000) from the final payment, or the full payment if less than ten thousand dollars (\$10,000).

In accordance with Military and Veterans Code section 999.55, the Trustees shall keep this payment certification report on file and proof of payments to DVBEs for a minimum of six (6) years in a manner that facilitates access and review by external auditors, and each campus shall file a DVBE Subcontracting Consolidation Report (STD810D) annually to DGS, reporting by November 1. This report consolidates all payment information received by DVBEs from Prime Contractor(s) on contracts completed during the fiscal year. Instructions for this form are posted online on the Sample Forms page.

A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation in accordance with Military and Veterans Code section 999.5(d).