

SMALL BUSINESS FIRST WAIVER

For non-Federally funded purchases \geq \$10,000 and \leq \$250,000

— Form Completion Instructions —

Small Business First Policy: [UC Policy BUS-43](#) requires that all non-construction and non-federally funded purchases between \geq \$10,000 and \leq \$250,000 annually (excluding tax but including shipping) that cannot be procured via an existing strategically sourced agreement, must be awarded to a certified Small Business (SB) or Disabled Veteran Business Enterprise (DVBE), wherever practicable.

Before using this Waiver: the purchaser should [use these SB/DVBE search platforms](#) and/or contact their campus [Supplier Diversity Coordinator](#) or Procurement/Supply Chain Management team for help in locating an SB/DVBE. Where possible, purchases should be made through [existing strategically sourced agreements](#) which are not required to go through the SB1st program.

Waiver Exemptions. The following purchase and/or agreement types are exempt from the SB1st policy and do not require a Waiver: purchases from existing strategically sourced or competitively bid agreements, sole source, design/construction, true emergencies, federal funds, interagency, local government, research sub-awards, higher education institution, concessions/revenue/reimbursement, and medical and patient care. (See [UC Staff SB1st webpage](#) for details on waiver exemption categories.)

This Waiver should be used: when a purchasing party must make an award to a non-SB or DVBE where an award to a SB/DVBE would otherwise be required. Instances where the SB1st program may not be feasible or when contracting with businesses other than a certified SB or DVBE is justified may include but are not limited to:

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

Waiver requirements. The entire Waiver must be completed by the responsible requesting party prior to submission for approval. Per [UC Policy BUS-43](#), the SB1st Waiver must be approved by the Procurement Policy Exception Authority (or designee) at your location before making a purchase or contracting with a company that is not an SB/DVBE. (NOTE: non-Federally funded awards to SB/DVBEs valued over \$100,000 must also be reported using the [Source Selection & Price Reasonableness form](#).)

UC policy requires applicable awards 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.

Non-Federally funded goods and services above \$10,000 must be purchased in compliance with the [California Public Contract Code](#) (PCC) and UC policies, including the UC SB1st policy. 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. Federally funded purchases in part or in whole are exempt from this program, but it is encouraged that the University utilize the SB1st program wherever practicable.

I. COMPLETING THE WAIVER

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

A. 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 SB1st 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
- **Supplier:** Name of supplier to whom the work is being awarded

B. Reason for Waiver Request: *This section must be completed for every form.* This section documents the main reason for needing a Waiver. Select the primary reason this waiver is being requested (you may only choose one).

C. Justification Narrative: *This section must be completed for every form.* Include a detailed narrative describing why an award cannot be made to an SB or DVBE that aligns with the Reason for Waiver Request (Section B above). Outline the steps taken to find a SB or DVBE and any other pertinent information to support why this Waiver is needed.

D. Attach Relevant Documentation. Include evidence of SB/DVBE recruitment efforts, small business search results, failed solicitations, correspondence with potential suppliers, Small Business Officer/Supplier Diversity Coordinator assistance, past procurement data search or previous contract information, etc.

E. Representation. *This section must be completed for every form.*

- This form must be signed by the Responsible Requesting Party in the campus department authorized to accept responsibility for the information provided in this form, as well as responsible for the funds used in this transaction.
- Please be sure you provide all the information requested in this section so questions about this form may be directed to the appropriate person(s).

F. Waiver Approval. *This section must be completed prior to award.*

- This waiver is subject to approval by the delegated Procurement Policy Exception Authority (or their designee) at your UC location.
- Refer to Section II – DEFINITIONS below for details on “Policy Exception Authority.”

II. DEFINITIONS

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

Small Business (SB): 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 [SB1st program webpage](#) 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 about certification status or how to proceed.

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 firm 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 exempt from bid, in which case, reasonable price is established via an adequate market test, set by applicable law or regulation, or supported by an appropriate price or cost analysis.
- These 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)

III. REFERENCES

1. [UC Policy BFB BUS-43 Purchases of Goods and Services; Supply Chain Management](#)
2. [Supplier Search Databases & Resources](#)
3. [List of UC Accepted Certifications](#)
4. [California Public Contract Code \(PCC\)](#)
5. [UC Sustainable Practices Policy](#)