

California Department of Forestry and Fire Protection

Information and Questionnaire for Contractors Seeking Emergency Equipment Rental Agreements with CDF

(rev. March 2005)

The purpose of this Information Sheet and Questionnaire is:

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

CDF Requirements for Emergency Equipment Rental Agreement (EERA):

CDF policy section 7761.2.2.3 states that CDF does not hire or rent equipment from equipment brokers. Therefore, every contractor that enters into an EERA with CDF have title, possession, control and risk of loss of materials, supplies, services or equipment hired or rented by CDF. Such title must be evidenced by bill of sale or other legally enforceable documents.

Lease vs. Sale: When a contract designated as a lease binds the lessee for a fixed term and the lessee is to obtain title at the end of the term upon completion of the required payments (or lessee has the option to purchase the property for a nominal amount that does not exceed \$100 or 1% of the total contact, whichever is the lesser amount) the contract will be regarded as a sale under a security agreement from its inception and not a lease. All other lease-purchase agreements granting the lessee an option to purchase the equipment or vehicle will not be considered a sale until the option to purchase is exercised and title to the leased property is transferred. Leased vehicles must be registered with the California Department of Motor Vehicles per Vehicle Code Section 4453.5. (Refer to www.dmv.ca.gov to view Vehicle Code.)

Certificate of Title for Vehicles: The Registration Card must contain the business name of the registered owner and of the legal owner/lienholder (person, bank, credit union, etc., that financed the vehicle), if any. The only exception is that a sole proprietor may register his/her vehicles in his/her own name rather than the business name.

Equipment that is owned by the contractor or under a purchase agreement must be insured by the contractor.

Equipment operator(s) furnished by a contractor may be owners, officers, or employees of the contractor, or independent contractors working for the contractor., The prime contractor 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.

“Commercially Useful Function”: All equipment contractors must perform a commercially useful function by meeting 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).

Refer to page 6 for DVBE equipment ownership and declaration requirements.

Questionnaire for Contractors Seeking Emergency Equipment Rental Agreements with CDF

All contractors 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 and reviewed.

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 contractor in the unit Emergency Resources Directory. Water tender and bulldozer contractors will be listed as either a Fire Ready group or Support group water tender or bulldozer contractor, and their name will be placed on the appropriate rotational hiring list.

A copy of the EERA, the completed CDF Contractor Questionnaire, and all supporting documentation will be retained in a contractor file at the local CDF unit headquarters. For CSBs and 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 contractor's current DVBE certification status.

- If DGS/OSDC verifies that the contractor is a **certified** Small Business or DVBE, CDF will include the CSB and/or DVBE status on its Statewide CSB/Disabled Veteran List for water tenders and/or bulldozers.
- IF DGS/OSDC reports that the contractor's CSB and/or DVBE certification status is "**expired, denied or revoked,**" CDF will list the contractor as a non-CSB/DVBE water tender and/or bulldozer contractor.
- If DGS/OSDC reports that the contractor's application for CSB and/or DVBE certification is in "**pending status**", CDF will request that DGS/OSDC process the contractor'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 contractor meets certification requirements, then the effective date of CSB and/or DVBE certification will be the submission date of the certification application.
 - If the application is a renewal for a CSB and/or DVBE whose certification recently expired, CDF will not remove the CSB- and/or 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

What equipment is the contractor purchasing under a lease-purchase agreement? (Provide a copy of all equipment lease-purchase agreements with other than a financial institution to confirm that the contract is a sale under a security agreement. Leased vehicles must be registered with the California DMV per Vehicle Code Section 4453.5. Provide copies of vehicle registration and proof of insurance in Contractor Name listed above.

3 List the name(s) of operators below that you expect to provide. For each operator, place an "X" in the column to indicate if they are an owner or officer, an employee, or an independent contractor.

Operator's Name	Owner or Officer	Employee	Independent Contractor	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 contractor by an independent contractor must be reported to the Internal Revenue Service (IRS) by the contractor on a Form 1099-MISC. The contractor is required by IRS regulations to keep copies of these forms.

B. Questions 4 and 5 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):

4. 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.

5. 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.

C. DVBE Equipment Ownership and Declaration Requirements:

In accordance with Military and Veterans Code 999.2 (c), a DVBE that rents equipment to the CDF will be deemed to be an equipment broker unless one or more disabled veterans has 51-percent ownership of the quantity and value of each piece of equipment. In accordance with Military and Veterans Code 999.2 (c),(d),and (f), all DVBE contractors must complete the attached Declaration prior to performance under the EERA.

CDF requires the original signature of a business owner or officer and one qualifying disabled veteran when the contractor 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