

Appendix Y

Service-Disabled Veteran-Owned Business Enterprises (SDVOBs) Utilization

1. Contractor agrees, to the maximum extent practical and consistent with legal requirements of the State Finance Law, the Executive Law and any implementing regulations, to use NYS certified Service-Disabled Veteran-Owned Business Enterprises (SDVOBs) in purchasing and utilizing commodities, services and technology that are of equal quality and functionality to those that may be obtained from non-SDVOBs. Contractor acknowledges being subject to the provisions of Executive Law Article 17-B and the applicable regulations (9 NYCRR Part 252), and that the directory of NYS certified SDVOBs is located at: http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf. Contractor acknowledges that the SDVOB utilization goal for this Agreement is 0 %. Contractor further acknowledges that this requirement is separate and distinct from the similar requirement elsewhere in this Agreement to utilize small, and minority and women-owned businesses (M/WBEs), consistent with current State law (Executive Law, Article 15-A).
2. Contractor agrees to report on *actual* participation by each SDVOB during the term of the contract to the OTDA on a quarterly basis according to policies and procedures to be set by the OTDA.
3. Contractor agrees that, following contract execution, if the OTDA determines that the contractor may not have acted in good faith, has failed, is failing, or is refusing to comply with the participation or utilization contractual goals for SDVOB participation, the OTDA may after giving the contractor an opportunity to be heard, make a determination that Contractor has failed to meet the contract goals and may be in breach of contract.
4. Upon determination that the Contractor is in breach of contract, as set forth in this Article, the OTDA may require the submission of a corrective action plan for meeting the contractual goals, and may also assess actual damages as authorized by regulation [9NYCRR Section 252.2 (s)] based on the actual cost incurred by the State agency, related to the State agency's expenses for personnel, supplies and overhead related to establishing, monitoring, and reviewing certified service-disabled veteran-owned business enterprise programmatic goals.
5. **NOTE:** Information about SDVOB certification and set asides for SDVOB participation in public procurement can be found at: <http://www.ogs.ny.gov/Core/SDVOBA.asp>, which provides certification information and guidance for State agencies in making determinations and administering set asides for procurements from SDVOBs.