	SANTA CRUZ SUPERIOR COURT SMALL BUSINESS PREFERENCE PROCEDURES FOR THE PURCHASE OF INFORMATION TECHNOLOGY GOODS AND SERVICES

SMALL BUSINESS PREFERENCE – IT GOODS AND SERVICES CONTRACTS

1. Terms

In these procedures:

A. "Bid" means a response to a competitive solicitation issued by the JBE, regardless of the solicitation document used by the JBE (e.g., IFB or RFP).
B. "Bidder" means a person or entity that submits a response to a competitive solicitation issued by the JBE, regardless of the solicitation document used by the JBE (e.g., IFB or RFP).
C. "Court" refers to the Santa Cruz Superior Court.
D. "Small Business Declaration" means the declaration completed by a Bidder seeking to claim the small business preference.
E. "DGS" refers to the California Department of General Services.
F. "IT" refers to information technology.
G. "JBE" means Judicial Branch Entity and refers to the Santa Cruz Superior Court.
H. "NVSA" refers to an entity certified by DGS as a small business nonprofit veteran service agency.[1]
I. "Small Business" refers to an entity certified by DGS as a small business or a microbusiness.[2]

2. Affected solicitations

A Bidder may claim a small business preference in competitive solicitations of IT goods and services.

The Court does not offer a small business preference in connection with non-IT goods or non-IT services.

3. Goal

The Court seeks to maximize participation of small businesses in the provision of IT goods and services to the JBE.

[1] See Military and Veterans Code section 999.51 for the requirements a business must meet to be certified as an NVSA.
[2] See Government Code section 14837(d) for the requirements a business must meet to be certified as a small business or a microbusiness.

4. Determining if a Bidder may claim the small business preference

The Bidder must complete the Small Business Declaration and submit it with its bid. The information contained in the Small Business Declaration is used to determine whether a Bidder may claim the small business preference. If a bid is disqualified on other grounds (e.g., it was late), there is no need to determine whether that Bidder would otherwise be able to claim the small business preference.

A Bidder may claim the small business preference in **two ways**. To claim the small business preference, the Bidder must meet the requirements in Section 4.A **or** Section 4.B below.

A. Bidder is a Small Business

The first way for a Bidder to qualify for the small business preference is if Bidder is a Small Business. To qualify for the small business preference in this manner:

i. Bidder must complete a Small Business Declaration.
ii. Bidder's Small Business certification must be active as of the date that the bids are due.
iii. Bidder must provide a copy of its Small Business certification approval letter issued by DGS.
iv. If Bidder will use subcontractors, the portion of the contract to be performed by Bidder itself must constitute a commercially useful function.[3]

Note: After the contract is completed, the Bidder must complete and submit to the Court a report stating the actual percentage of small business participation achieved.

B. Bidder is an NVSA

The second way for a Bidder to qualify for the small business preference is if Bidder is an NVSA. To qualify for the small business preference in this manner:

i. Bidder must complete a Small Business Declaration.
ii. Bidder's NVSA certification must be active as of the date that the bids are due.

[3] Government Code section 14837(d)(4)(A) states that a business performs a "commercially useful function" if the entity does all of the following: (a) is responsible for the execution of a distinct element of the work of the contract; (b) carries out its obligation by actually performing, managing, or supervising the work involved; (c) performs work that is normal for its business services and functions; (d) is responsible, with respect to products, inventories, materials, and supplies required for the contract, for negotiating price, determining quality and quantity, ordering, installing, if applicable, and making payment; and (e) is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices. If Bidder is performing all of the contract work itself and is not using subcontractors, Bidder is by default performing a commercially useful function.

iii. Bidder must provide a copy of its NVSA certification approval letter issued by DGS.

Note: A Bidder that qualifies for the small business preference because it is an NVSA cannot displace a Bidder that is itself a Small Business.

5. Applying the small business preference

A. Preference amount

The amount of the small business preference is 5%. The way the small business preference is applied depends on whether the contract will be awarded to the lowest responsible bidder or to the highest scored bid.

B. Small business preference in lowest responsible bidder solicitations

i. **Basic calculation.** For solicitations awarded to the lowest responsible bidder (e.g., IFBs), the Bidder's bid price is reduced by an amount equal to 5% of the lowest responsible bid. This reduction is for evaluation purposes only; the amount to be paid to Bidder if it wins the contract is not reduced by this amount.

Example 1: The JBE issues a lowest responsible bidder solicitation and receives three responsive bids. The first bid is from AAA Corp (not eligible for the small business preference) for $98,000. The second bid is from BBB Corp (eligible for the small business preference) for $100,000. The third bid is from CCC Corp (eligible for the small business preference) for $110,000. The lowest responsible bid is AAA Corp's bid for $98,000, so the dollar amount of the small business preference is $4,900 (98,000 x 5% = 4,900). A bid submitted by an entity eligible for the small business preference is reduced by this amount, for purposes of evaluating the bids. The bid from BBB Corp (eligible for the small business preference) is reduced by $4,900 to $95,100. The bid from CCC Corp (also eligible for the small business preference) is reduced by $4,900 to $105,100. In this scenario, the JBE will award the contract to BBB Corp; the amount of the contract will be $100,000.

	AAA Corp	***BBB Corp***	***CCC Corp***
Bid amount	*$98,000*	*$100,000*	*$110,000*
Eligible for small business preference?	*No*	*Yes*	*Yes*
Dollar amount of small business preference		*$4,900*	*$4,900*

Adjusted bid amount (for purposes of evaluating the bids)	*$98,000*	***$95,100***	*$105,100*

ii. **Maximum value.** The maximum dollar value of the small business preference in a lowest responsible bidder solicitation is $50,000. In other words, the value of the small business preference is capped at $50,000.

Example 2: The JBE issues a lowest responsible bidder solicitation and receives three responsive bids. The first bid is from DDD Corp (eligible for the small business preference) for $2,100,000. The second bid is from EEE Corp (eligible for the small business preference) for $2,075,000. The third bid is from FFF Corp (not eligible for the small business preference) for $2,000,000. The lowest responsible bid is FFF Corp's bid for $2,000,000, so one might expect that the dollar amount of the small business preference will be $100,000 (2,000,000 x 5% = 100,000). However, the maximum dollar value of the small business preference is $50,000. A bid submitted by an entity eligible for the small business preference is reduced by $50,000 for purposes of evaluating the bids. The bid from DDD Corp (eligible for the small business preference) is reduced by $50,000 to $2,050,000. The bid from EEE Corp (eligible for the small business preference) is reduced by $50,000 to $2,025,000. In this scenario, the JBE will award the contract to FFF Corp; the amount of the contract will be $2,000,000.

	DDD Corp	***EEE Corp***	***FFF Corp***
Bid amount	*$2,100,000*	*$2,075,000*	*$2,000,000*
Eligible for small business preference?	*Yes*	*Yes*	*No*
Dollar amount of small business preference	*$50,000*	*$50,000*	
Adjusted bid amount (for purposes of evaluating the bids)	*$2,050,000*	*$2,025,000*	***$2,000,000***

iii. **Priority given to Small Businesses over NVSAs.** Bidders that are Small Businesses are given priority over NVSAs. Specifically,

application of a small business preference to an NVSA shall not result in the denial of the award to a Small Business.

Example 3: The JBE issues a lowest responsible bidder solicitation and receives three responsive bids. The first bid is from GGG Corp (not eligible for the small business preference) for $100,000. The second bid is from HHH Corp, a Small Business that bids $102,500. The third bid is for $101,000 from III Corp, an NVSA. The lowest responsible bid is GGG Corp's bid for $100,000, so the dollar amount of the small business preference is $5,000 (100,000 x 5% = 5,000). One might expect that the contract will be awarded to III Corp, because its adjusted bid amount is expected to be $96,000 ($101,000 - $5,000 = $96,000). However, the application of the small business preference to the bid of an NVSA cannot result in the denial of an award to an entity that is a Small Business. Accordingly, the small business preference is not applied to III Corp's bid. The JBE will award the contract to HHH Corp; the amount of the contract will be $102,500. [4]

	GGG Corp	***HHH Corp***	***III Corp***
Bid amount	*$100,000*	*$102,500*	*$101,000*
Eligible for small business preference?	*No*	*Yes – HHH Corp is a Small Business*	*Yes – III Corp is an NVSA*
Dollar amount of small business preference		*$5,000*	~~*$5,000*~~ *$0*
Adjusted bid amount (for purposes of evaluating the bids)	*$100,000*	***$97,500***	~~*$96,000*~~ *$101,000*

iv. **Interaction with DVBE incentive – order of application.** If both the small business preference and the DVBE incentive[5] are offered in connection with a lowest responsible bidder solicitation, the small business preference is applied first, and the DVBE incentive is applied second.

[4] If HHH Corp refuses or fails to execute the JBE's agreement, the JBE may award the contract to the next qualified Bidder. Because application of the small business preference to III Corp's bid would no longer result in the denial of an award to a Small Business, the small business preference would be applied to III Corp's bid. In this scenario, the JBE would award the contract to III Corp; the amount of the contract would be $101,000.

[5] In these procedures, it is assumed that when the JBE uses a DVBE incentive, the incentive amount is 3%.

Example 4: The JBE issues a lowest responsible bidder solicitation and receives three responsive bids. The first bid is from JJJ Corp (eligible for both the small business preference and the DVBE incentive) for $90,000. The second bid is from KKK Corp (eligible for neither the small business preference nor the DVBE incentive) for $75,000. The third bid is from LLL Corp (eligible for the small business preference but not the DVBE incentive) for $80,000. The lowest responsible bid is KKK Corp's bid for $75,000, so this amount is used to calculate both the small business preference and the DVBE incentive. First, the small business preference is applied. Five percent of $75,000 is $3,750, so JJJ Corp's bid and LLL Corp's bid are reduced (for evaluation purposes) by $3,750. Second, the DVBE incentive is applied. Three percent of $75,000 is $2,250, so JJJ Corp's bid is reduced further (for evaluation purposes) by $2,250. In this scenario, the JBE will award the contract to KKK Corp; the amount of the contract will be $75,000.

	JJJ Corp	***KKK Corp***	***LLL Corp***
Bid amount	*$90,000*	*$75,000*	*$80,000*
Eligible for small business preference?	*Yes*	*No*	*Yes*
Dollar amount of small business preference	*$3,750*		*$3,750*
Subtotal after application of small business preference	*$86,250*	*$75,000*	*$76,250*
DVBE?	*Yes*	*No*	*No*
Dollar amount of DVBE incentive (3%)	*$2,250*		
Adjusted bid amount (for purposes of evaluating the bids)	*$84,000*	***$75,000***	*$76,250*

v. **Interaction with DVBE incentive – combined maximum value.** If both the small business preference and the DVBE incentive are offered in connection with a lowest responsible bidder solicitation, the combined maximum dollar value of the small business preference and the DVBE incentive is $100,000.

Example 5: The JBE issues a lowest responsible bidder solicitation and receives three responsive bids. The first bid is from MMM

Corp (eligible for the small business preference but not the DVBE incentive) for $2,020,000. The second bid is from NNN Corp (eligible for both the small business preference and the DVBE incentive) for $2,075,000. The third bid is from OOO Corp (eligible for neither the small business preference nor the DVBE incentive) for $2,000,000. The lowest responsible bid is OOO Corp's bid for $2,000,000, so this amount is used to calculate both the small business preference and the DVBE incentive. First, the small business preference is applied. Five percent of $2,000,000 is $100,000, but the maximum dollar value of the small business preference is $50,000. Accordingly, MMM Corp's bid and NNN Corp's bid are reduced (for evaluation purposes) by $50,000. Second, the DVBE incentive is applied. Three percent of $2,000,000 is $60,000, so one might expect that NNN Corp's bid would be reduced further (for evaluation purposes) by $60,000. However, the combined maximum dollar value of the small business preference and the DVBE incentive is $100,000. Because NNN Corp's bid was reduced (for evaluation purposes) by $50,000 as a result of the small business preference, NNN Corp's bid can only be reduced by $50,000 (for evaluation purposes) as a result of the DVBE incentive. In this scenario, the JBE will award the contract to MMM Corp; the amount of the contract will be $2,020,000.

	MMM Corp	***NNN Corp***	***OOO Corp***
Bid amount	*$2,020,000*	*$2,075,000*	*$2,000,000*
Eligible for small business preference?	*Yes*	*Yes*	*No*
Dollar amount of small business preference	*$50,000*	*$50,000*	
Subtotal after application of small business preference	*$1,970,000*	*$2,025,000*	*$2,000,000*
DVBE?	*No*	*Yes*	*No*
Dollar amount of DVBE incentive (3%)		*$50,000*	
Adjusted bid amount (for purposes of evaluating the bids)	***$1,970,000***	*$1,975,000*	*$2,000,000*

vi. **Interaction with DVBE incentive – displacing a Small Business.** Application of the DVBE incentive shall not result in a contract being awarded to an entity that is not a Small Business instead of to a Small Business. A DVBE that is a Small Business can displace another Small Business through application of the DVBE incentive (see *Example 6*). A DVBE that is not a Small Business cannot displace a Small Business through application of the DVBE incentive (see *Example 7*).

Example 6: The JBE issues a lowest responsible bidder solicitation and receives three responsive bids. The first bid is from PPP Corp (a Small Business eligible for the DVBE incentive) for $220,000. The second bid is from QQQ Corp (eligible for neither the small business preference nor the DVBE incentive) for $210,000. The third bid is from RRR Corp (a Small Business not eligible for the DVBE incentive) for $215,000. The lowest responsible bid is QQQ Corp's bid for $210,000, so this amount is used to calculate both the small business preference and the DVBE incentive. First, the small business preference is applied. Five percent of $210,000 is $10,500, so PPP Corp's bid and RRR Corp's bid are reduced (for evaluation purposes) by $10,500. Next, the DVBE incentive is applied. Three percent of $210,000 is $6,300, so PPP Corp's bid is reduced further (for evaluation purposes) by $6,300. Application of the DVBE incentive would result in PPP Corp displacing RRR Corp. Because RRR Corp is a Small Business, only another Small Business can displace it using the DVBE incentive. Because PPP Corp is also a Small Business, PPP Corp can displace RRR Corp using the DVBE incentive. In this scenario, the JBE will award the contract to PPP Corp; the amount of the contract will be $220,000.

	PPP Corp	***QQQ Corp***	***RRR Corp***
Bid amount	*$220,000*	*$210,000*	*$215,000*
Eligible for small business preference?	*Yes – PPP Corp is a Small Business*	*No*	*Yes – RRR Corp is a Small Business*
Dollar amount of small business preference	*$10,500*		*$10,500*
Subtotal after application of small business preference	*$209,500*	*$210,000*	*$204,500*
DVBE?	*Yes*	*No*	*No*

Dollar amount of DVBE incentive (3%)	*$6,300*		
Adjusted bid amount (for purposes of evaluating the bids)	***$203,200***	*$210,000*	*$204,500*

Example 7: The JBE issues a lowest responsible bidder solicitation and receives three responsive bids. The first bid is from SSS Corp (a Small Business that is not eligible for the DVBE incentive) for $208,000. The second bid is from TTT Corp (eligible for neither the small business preference nor the DVBE incentive) for $200,000. The third bid is from UUU Corp (not eligible for the small business preference but eligible for the DVBE incentive) for $203,000. The lowest responsible bid is TTT Corp's bid for $200,000, so this amount is used to calculate both the small business preference and the DVBE incentive. First, the small business preference is applied. Five percent of $200,000 is $10,000, so SSS Corp's bid is reduced (for evaluation purposes) by $10,000. Second, the DVBE incentive is applied. Three percent of $200,000 is $6,000, so one would expect that UUU Corp's bid would be reduced (for evaluation purposes) by $6,000. But application of the DVBE incentive would result in UUU Corp displacing SSS Corp. Because SSS Corp is a Small Business, only another Small Business can displace it using the DVBE incentive. Because UUU Corp is not a Small Business, it cannot displace SSS Corp using the DVBE incentive. Accordingly, the DVBE incentive is not applied to UUU Corp's bid. In this scenario, the JBE will award the contract to SSS Corp; the amount of the contract will be $208,000. [6]

	SSS Corp	***TTT Corp***	***UUU Corp***
Bid amount	*$208,000*	*$200,000*	*$203,000*
Eligible for small business preference?	*Yes – SSS Corp is a Small Business*	*No*	*No*
Dollar amount of small business preference	*$10,000*		

[6] If SSS Corp refuses or fails to execute the JBE's agreement, the JBE may award the contract to the next qualified Bidder. Because application of the DVBE incentive to UUU Corp's bid would no longer result in the denial of an award to a Small Business, the DVBE incentive would be applied to UUU Corp's bid. In this scenario, the JBE would award the contract to UUU Corp; the amount of the contract would be $203,000.

Subtotal after application of small business preference	*$198,000*	*$200,000*	*$203,000*
DVBE?	*No*	*No*	*Yes*
Dollar amount of DVBE incentive (3%)			*~~$6,000~~ $0*
Adjusted bid amount (for purposes of evaluating the bids)	***$198,000***	*$200,000*	*~~$197,000~~ $203,000*

vii. **Interaction with DVBE incentive – tie bids.** In the event of a precise tie between a bidder that is a Small Business and another bidder that is both a Small Business and a DVBE, the contract will be awarded to the bidder that is both a Small Business and a DVBE.

Example 8: The JBE issues a lowest responsible bidder solicitation and receives three responsive bids. The first bid is from VVV Corp (a Small Business that is also a DVBE) for $221,800. The second bid is from WWW Corp (eligible for neither the small business preference nor the DVBE incentive) for $210,000. The third bid is from XXX Corp (a Small Business not eligible for the DVBE incentive) for $215,500. The lowest responsible bid is WWW Corp's bid for $210,000, so this amount is used to calculate both the small business preference and the DVBE incentive. First, the small business preference is applied. Five percent of $210,000 is $10,500, so VVV Corp's bid and XXX Corp's bid are reduced (for evaluation purposes) by $10,500. Second, the DVBE incentive is applied. Three percent of $210,000 is $6,300, so VVV Corp's bid is reduced further (for evaluation purposes) by $6,300. In this scenario, there is a tie between a Small Business (XXX Corp) and a Small Business that is also a DVBE (VVV Corp), so the contract will be awarded to the Small Business that is also a DVBE. Accordingly, the JBE will award the contract to VVV Corp; the amount of the contract will be $221,800.

	VVV Corp	***WWW Corp***	***XXX Corp***
Bid amount	*$221,800*	*$210,000*	*$215,500*
Eligible for small business preference?	*Yes – VVV Corp is a Small Business*	*No*	*Yes– XXX Corp is a Small Business*
Dollar amount of small	*$10,500*		*$10,500*

business preference			
Subtotal after application of small business preference	*$211,300*	*$210,000*	*$205,000*
DVBE?	*Yes – VVV Corp is a DVBE*	*No*	*No*
Dollar amount of DVBE incentive (3%)	*$6,300*		
Adjusted bid amount (for purposes of evaluating the bids)	***$205,000***	*$210,000*	*$205,000*

C. Small business preference in highest scored bid solicitations

i. **Basic application.** For solicitations awarded to the highest scored bid (e.g., RFPs), the small business preference is equal to 5% of the points assigned to the highest scored bid.[7]

Example 9: The JBE issues a highest scored bid solicitation and receives three responsive bids. The first bid is from AAA Corp (eligible for the small business preference); it receives a score of 75 points. The second bid is from BBB Corp (eligible for the small business preference); it receives a score of 78 points. The third bid is from CCC Corp (not eligible for the small business preference); it receives a score of 80 points. The highest scored bid is CCC Corp's bid scored at 80 points, so the amount of the small business preference is 4 points (80 x 5% = 4). The score of a bid submitted by an entity eligible for the small business preference is increased by this amount. The bid from AAA Corp is increased by 4 points to 79 points. The bid from BBB Corp is increased by 4 points to 82 points. In this scenario, the JBE will award the contract to BBB Corp.

	AAA Corp	***BBB Corp***	***CCC Corp***
Initial bid score	*75 points*	*78 points*	*80 points*
Eligible for small	*Yes*	*Yes*	*No*

[7] The JBE may specify, in the relevant solicitation document, a minimum number of points that a bid must receive in order to be eligible for the small business preference. For example, an RFP could state that only bids receiving an initial bid score of 60 points or higher will be eligible for the small business preference.

business preference?			
Amount of small business preference	*4 points*	*4 points*	
Bid score including small business preference	*79 points*	***82 points***	*80 points*

ii. **Priority given to Small Businesses over NVSAs.** Bidders that are Small Businesses are given priority over NVSAs. Specifically, application of a small business preference to an NVSA shall not result in the denial of the award to a Small Business.

Example 10: The JBE issues a highest scored bid solicitation and receives three responsive bids. The first bid is from DDD Corp (not eligible for the small business preference); it receives a score of 85 points. The second bid is from EEE Corp, a Small Business. EEE Corp's bid receives a score of 81 points. The third bid is from FFF Corp, an NVSA. FFF Corp's bid receives a score of 84 points. The highest scored bid is DDD Corp's bid scored at 85 points, so the amount of the small business preference is 4.25 points (85 x 5% = 4.25). The score of a bid submitted by each entity eligible for the small business preference would normally be increased by this amount. One might expect that the contract will be awarded to FFF Corp, because its adjusted bid amount is expected to be 88.25 (84 points plus 4.25 points for the small business preference). However, the application of the small business preference to the bid of an NVSA cannot result in the denial of an award to an entity that is a Small Business. Accordingly, the small business preference is not applied to FFF Corp's bid. The JBE will award the contract to EEE Corp. [8]

	DDD Corp	***EEE Corp***	***FFF Corp***
Initial bid score	*85 points*	*81 points*	*84 points*
Eligible for small business preference?	*No*	*Yes – EEE Corp is a Small Business*	*Yes – FFF Corp is an NVSA*

[8] If EEE Corp refuses or fails to execute the JBE's agreement, the JBE may award the contract to the next qualified Bidder. Because application of the small business preference to FFF Corp's bid would no longer result in the denial of an award to a Small Business, the small business preference would be applied to FFF Corp's bid. In this scenario, the JBE would award the contract to FFF Corp.

Amount of small business preference		*4.25 points*	*~~4.25 points~~ 0 points*
Adjusted bid amount (for purposes of evaluating the bids)	*85 points*	***85.25 points***	*~~88.25 points~~ 84 points*

iii. **Interaction with DVBE incentive – order of application.** If both the small business preference and the DVBE incentive are offered in connection with a highest scored bid solicitation, the Court will: (i) determine the initial score for each bid, including all criteria other than the small business preference and the DVBE incentive, (ii) apply the small business preference, and (iii) apply the DVBE incentive.

Example 11: The JBE issues a highest scored bid solicitation and receives three responsive bids. First step: the JBE determines the initial score for each bid, excluding the small business preference and the DVBE incentive. The first bid is from GGG Corp (not eligible for the small business preference but eligible for the DVBE incentive) and is initially scored at 83 points. The second bid is from HHH Corp (eligible for both the small business preference and the DVBE incentive) and is initially scored at 80 points. The third bid is from III Corp (eligible for the small business preference but not the DVBE incentive) and is initially scored at 79 points. Second step: the JBE applies the small business preference. The highest scored bid is GGG Corp's bid scored at 83 points, so the amount of the small business preference is 4.15 points (83 x 5% = 4.15). The scores of bids submitted by entities eligible for the small business preference are increased by this amount. Third step: the JBE applies the DVBE incentive. In this scenario, the DVBE incentive is 3 points, so 3 points are added to the scores of entities eligible for the DVBE incentive. The JBE will award the contract to the HHH Corp.

	GGG Corp	***HHH Corp***	***III Corp***
Initial bid score	*83 points*	*80 points*	*79 points*
Eligible for small business preference?	*No*	*Yes*	*Yes*
Amount of small		*4.15 points*	*4.15 points*

business preference			
Bid score including small business preference	*83 points*	*84.15 points*	*83.15 points*
DVBE?	*Yes*	*Yes*	*No*
DVBE incentive	*3 points*	*3 points*	
Bid score including DVBE incentive	*86 points*	***87.15 points***	*83.15 points*

iv. **Interaction with DVBE incentive – displacing a Small Business.** Application of the DVBE incentive shall not result in a contract being awarded to an entity that is not a Small Business instead of to a Small Business. A DVBE that is a Small Business can displace another Small Business through application of the DVBE incentive (see *Example 12*). A DVBE that is not a Small Business cannot displace a Small Business through application of the DVBE incentive (see *Example 13*).

Example 12: The JBE issues a highest scored bid solicitation and receives three responsive bids. First step: the JBE determines the initial score for each bid, excluding the small business preference and the DVBE incentive. The first bid is from JJJ Corp (a Small Business that is also eligible for the DVBE incentive) and is initially scored at 77 points. The second bid is from KKK Corp (eligible for neither the small business preference nor the DVBE incentive) and is initially scored at 82 points. The third bid is from LLL Corp (a Small Business that is not eligible for the DVBE incentive) and is initially scored at 79 points. Second step: the JBE applies the small business preference. The highest scored bid is KKK Corp's bid scored at 82 points, so the amount of the small business preference is 4.1 points (82 x 5% = 4.1). The scores of the bids submitted by entities eligible for the small business preference are increased by this amount. Third step: the JBE applies the DVBE incentive. Application of the DVBE incentive would result in JJJ Corp displacing LLL Corp. Because LLL Corp is a Small Business, only another Small Business can displace it using the DVBE incentive. Because JJJ Corp is also a Small Business, JJJ Corp can displace LLL Corp using the DVBE incentive. In this scenario, the JBE will award the contract to JJJ Corp.

	JJJ Corp	***KKK Corp***	***LLL Corp***
Initial bid score	*77 points*	*82 points*	*79 points*
Eligible for small business preference?	*Yes – JJJ Corp is a Small Business*	*No*	*Yes – LLL Corp is a Small Business*
Amount of small business preference	*4.1 points*		*4.1 points*
Bid score including small business preference	*81.1 points*	*82 points*	*83.1 points*
DVBE?	*Yes*	*No*	*No*
DVBE incentive	*3 points*		
Bid score including DVBE incentive	***84.1 points***	*82 points*	*83.1 points*

Example 13: The JBE issues a highest scored bid solicitation and receives three responsive bids. First step: the JBE determines the initial score for each bid, excluding the small business preference and the DVBE incentive. The first bid is from MMM Corp (a Small Business that is not eligible for the DVBE incentive) and is initially scored at 83 points. The second bid is from NNN Corp (not eligible for the small business preference but eligible for the DVBE incentive) and is initially scored at 85 points. The third bid is from OOO Corp (eligible for neither the small business preference nor the DVBE incentive) and is initially scored at 81 points. Second step: the JBE applies the small business preference. The highest scored bid is NNN Corp's bid scored at 85 points, so the amount of the small business preference is 4.25 points (85 x 5% = 4.25). The score of the bids submitted by entities eligible for the small business preference are increased by this amount. Third step: the JBE applies the DVBE incentive. Application of the DVBE incentive would result in NNN Corp displacing MMM Corp. Because MMM Corp is a Small Business, only another Small Business can displace it using the DVBE incentive. Because NNN Corp is not a Small Business, it cannot displace MMM Corp using the DVBE incentive. Accordingly, the DVBE incentive is not applied to NNN

Corp's bid. In this scenario, the JBE will award the contract to MMM Corp. [9]

	MMM Corp	***NNN Corp***	***OOO Corp***
Initial bid score	*83 points*	*85 points*	*81 points*
Eligible for small business preference?	*Yes – MMM Corp is a Small Business*	*No*	*No*
Amount of small business preference	*4.25 points*		
Bid score including small business preference	*87.25 points*	*85 points*	*81 points*
DVBE?	*No*	*Yes*	*No*
DVBE incentive		*0 points*	
Bid score including DVBE incentive	***87.25 points***	*85 points*	*81 points*

v. **Interaction with DVBE incentive – tie bids.** In the event of a precise tie between a bidder that is a Small Business and another bidder that is both a Small Business and a DVBE, the contract will be awarded to the bidder that is both a Small Business and a DVBE.

Example 14: The JBE issues a highest scored bid solicitation and receives three responsive bids. First step: the JBE determines the initial score for each bid, excluding the small business preference and the DVBE incentive. The first bid is from PPP Corp (eligible for neither the small business nor the DVBE incentive) and is initially scored at 84 points. The second bid is from QQQ Corp (a Small Business that is also a DVBE) and is initially scored at 79 points. The third bid is from RRR Corp (a Small Business that is not eligible for the DVBE incentive) and initially scored at 82 points. Second step: the JBE applies the small business preference. The

[9] If MMM Corp refuses or fails to execute the JBE's agreement, the JBE may award the contract to the next qualified Bidder. Because application of the DVBE incentive to NNN Corp's bid would no longer result in the denial of an award to a Small Business, the DVBE incentive would be applied to NNN Corp's bid. In this scenario, the JBE would award the contract to NNN Corp.

highest scored bid is PPP Corp's bid scored at 84 points, so the amount of the small business preference is 4.2 points (84 x 5% = 4.2). The scores of the bids submitted by entities eligible for the small business preference are increased by this amount. Third step: the JBE applies the DVBE incentive. The scores of the bids submitted by entities eligible for the DVBE incentive are increased by the DVBE incentive amount (3 points). The result is a precise tie between a QQQ Corp (a Small Business that is also a DVBE) and RRR (a Small Business that is not a DVBE). In this scenario, the JBE will award the contract to QQQ Corp.

	PPP Corp	***QQQ Corp***	***RRR Corp***
Initial bid score	*84 points*	*79 points*	*82 points*
Eligible for small business preference?	*No*	*Yes – QQQ Corp is a Small Business*	*Yes – RRR Corp is a Small Business*
Amount of small business preference		*4.2 points*	*4.2 points*
Bid score including small business preference	*84 points*	*83.2 points*	*86.2 points*
DVBE?	*No*	*Yes – QQQ Corp is a DVBE*	*No*
DVBE incentive		*3 points*	
Bid score including DVBE incentive	*86 points*	***86.2 points***	*86.2 points*