

**DEPARTMENT OF TRANSPORTATION**

OFFICE OF BUSINESS AND ECONOMIC

OPPORTUNITY

1823 14<sup>TH</sup> STREET

SACRAMENTO, CA 95811

PHONE (916) 324-1700

FAX (916) 324-8760

TTY 711



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Be energy efficient!*

February 23, 2012

Mr. Kevin Hoyt  
Eighth Avenue Enterprises  
10326 Alta Loma Drive  
Alta Loma, CA 91737

RE: Disabled Veterans Business Enterprise (DVBE) #1030780

Dear Mr. Hoyt:

This letter is regarding the evaluation of Eighth Avenue Enterprises in the performance of its Commercial Useful Function (CUF) as a certified Disabled Veterans Business Enterprise (DVBE), as well as the site visit conducted by the Department of Transportation (Caltrans), Contract Evaluation Unit (CEU) staff, on February 15, 2012.

Based on CEU's review and site visit it is determined that Eighth Avenue Enterprises is not performing a CUF in providing trucking services of supplying asphalt oil or similar materials. Outside the standard office equipment (fax machine, computer, copier, etc), Eighth Avenue Enterprises claims to possess a small offset printing press which has no relevance in the supplying asphalt oil or similar materials. Sufficient supporting documentation was not provided demonstrating that Eighth Avenue Enterprises takes possession or control of materials or products for Caltrans DVBE projects. Further, sufficient supporting documentation was not provided to demonstrate that Eighth Avenue Enterprises performs a distinct element of the work in a manner that is normal for its business services and function of supplying asphalt oil as it does not have nor lease distribution equipment. Our finding is that Eighth Avenue Enterprises merely acts as a "pass-through", and does not perform, supervise or manage the material or elements involved in contracts.

Our finding is that Eighth Avenue Enterprises' role is that of an extra or unessential participant on Caltrans DVBE projects in the purchase and delivery of the material or elements. As a result, Eighth Avenue Enterprises is not performing a CUF, therefore deemed as adding no value to Caltrans DVBE contracts.

Based on the review of the information and documentation obtained as a result of the site visit, pursuant to Military & Veterans Code §999(b) (5) (B) (i) and (ii), your firm does not perform a CUF when providing the following type of services:

Classification Number	Description
301216	Asphalts
301217	Road and Railroad Construction Materials
324120	Asphalt Paving, Roofing, and Saturated Materials Manufacturing
324121	Asphalt Paving Mixture and Block Manufacturing
327320	Ready-Mix Concrete Manufacturing
331210	Iron and Steel Pipe and Tube Manufacturing from Purchased Steel
334310	Audio and Video Equipment Manufacturing
335921	Fiber Optic Cable Manufacturing

Classification Numbers:

- 301216 & 301217
  - The above codes deal with asphalts and other various road/railroad construction materials and Eighth Avenue Enterprises does not own, nor lease any vehicle to take ownership of the materials being transported.
- 324120, 324121, 327320, 331210, 334310, 335921
  - The above codes all describe methods of manufacturing various products and/or services and Eighth Avenue Enterprises does not have manufacturing facilities that would produce these products and/or services.

We have therefore determined that your firm is not providing a CUF for the above specified classifications (30126, 301217) because ownership and possession of the afore mentioned products and/material does not take place.

Classifications (324120, 324121, 327320, 331210, 334310, 335921) for the reason that manufacturing nor production of the materials/products is not taking place and the DVBE credit will not be given toward the DVBE goal on a Caltrans State funded contract when it comes to these products.

Military and Veterans Code §999 (b) (5) (B) states:

(B) "Disabled veteran business enterprise contractor, subcontractor, or supplier" means any person or entity that has been certified by the administering agency pursuant to this article and that performs a "commercially useful function," as defined below, in providing services or goods that contribute to the fulfillment of the contract requirements:

(i) A person or an entity is deemed to perform a "commercially useful function" if a person or entity does all of the following:

(I) (aa) Is responsible for the execution of a distinct element of the work of the contract.

(ab) Carries out the obligation by actually performing, managing, or supervising the work involved.

(ac) Performs work that is normal for its business services and functions.

(II) Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

(ii) *A contractor, subcontractor, or supplier will not be considered to perform a "commercially useful function" if the contractor's, subcontractor's, or supplier's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of a disabled veteran business enterprise participation.*

Furthermore, Military and Veterans Code §999 (b) (7) (B) (ii) states: "*The management and control of the daily business operations are by one or more disabled veterans*". The disabled veterans who exercise management and control are not required to be the same disabled veterans as the owners of the business (emphasis added).

You may review your firm's information on the Department of General Services (DGS) website at <http://www.bidsync.com/DPXBisCASB>. It is your responsibility to maintain correct information regarding your firm's name, address, phone/fax number, and e-mail address on the DGS website.

Caltrans CEU is amiable to re-visit your firm to determine if work classifications and updated information reflect actual practices. The time and date of a re-visit will be based on availability of Caltrans CEU staff.

Caltrans does not provide an appeal hearing on determinations of commercially useful functions.

Eighth Avenue Enterprises

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If you have questions or need further assistance or clarification, please contact Ryan Jeske, Contract Evaluation Analyst, CEU at (916) 324-0462 or email at ryan\_jeske@dot.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Blanca Rodriguez" in a cursive style. To the right of the signature, there is a small handwritten "for" in a similar cursive script.

BLANCA RODRIGUEZ  
Acting Deputy Director  
Office of Business and Economic Opportunity

c: Janice Salais, Contract Evaluation Manager  
Ryan Jeske, Contract Evaluation Analyst  
Department of General Services  
Office Engineer