

DEPARTMENT OF TRANSPORTATION
 OFFICE OF BUSINESS AND ECONOMIC OPPORTUNITY
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*Flex your power!
 Be energy efficient!*

April 26, 2011

Robert Penny
 Robert Penny Enterprises
 103 S. Russell Street
 Lakeport, CA 95453

RE: Disabled Veterans Business Enterprise (DVBE) Number 498

Dear Mr. Penny:

This letter is regarding the site visit conducted by the Department of Transportation (Caltrans), Contract Evaluation Unit (CEU) staff on February 14, 2011. The purpose of the site visit is to ensure all certified DVBE firms that bid on or perform on Caltrans State funded projects are performing a commercial useful function (CUF) for items they have been listed to perform. Caltrans initiated the affirmative step to verify CUF for DVBEs on Caltrans State funded projects. Based on 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 service:

Classification Number	Description
771217	Water Pollution

The current nature of Robert Penny Enterprises is database updates, research, and contract support.

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.*

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Furthermore, Military and Veterans Code §999 (b) (7) (B) (ii) states:

(ii)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. (italics added)

Since we have determined your firm is not providing a CUF for the specified classification listed in the above chart, the DVBE credit will not be given toward the DVBE goal on a Caltrans State funded contract.

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.

If you have questions or need further assistance or clarification, please contact Paul Richard, Associate Governmental Program Analyst, CEU at (916) 324-0453, or by email at paul_richard_sr@dot.ca.gov.

Sincerely,

PEG A. BERGMANN
Manager
Contract Evaluation Unit
California Department of Transportation

c: Paul Richard, Associate Governmental Program Analyst
Department of General Services
Office Engineering