

ASSEMBLY BILL

No. 608

Introduced by Assembly Member De La Torre

February 21, 2007

An act to amend Section 14838 of the Government Code, relating to state contracting.

LEGISLATIVE COUNSEL'S DIGEST

AB 608, as introduced, De La Torre. State contracting: small business preference.

The Small Business Procurement and Contract Act requires the directors of the Department of General Services and other state agencies entering into contracts for the provision of goods, information technology, and services to the state, and in the construction of state facilities, to provide for a preference up to and including 5%, not to exceed \$50,000 for any bid, to small businesses and microbusinesses, or nonsmall businesses that provide for small business and microbusiness subcontractor participation, in solicitations where an award is to be made to the lowest responsible bidding meeting specifications. The combined cost of preferences granted pursuant to this provision and any other provision of law may not exceed \$100,000, subject to specified criteria.

This bill would increase the dollar amount of these limits to \$500,000 and \$1,000,000, respectively.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14838 of the Government Code is
2 amended to read:

3 14838. In order to facilitate the participation of small business,
4 including microbusiness, in the provision of goods, information
5 technology, and services to the state, and in the construction
6 ~~(including, including the~~ alteration, demolition, repair, or
7 ~~improvement)~~ *improvement*, of state facilities, the directors of *the*
8 *Department of General Services* and other state agencies that enter
9 those contracts, each within their respective areas of responsibility,
10 shall do all of the following:

11 (a) Establish goals, consistent with those established by the
12 Office of Small Business Certification and Resources, for the extent
13 of participation of small businesses, including microbusinesses,
14 in the provision of goods, information technology, and services to
15 the state, and in the construction of state facilities.

16 (b) Provide for small business preference, or nonsmall business
17 preference for bidders that provide for small business and
18 microbusiness subcontractor participation, in the award of contracts
19 for goods, information technology, services, and construction, as
20 follows:

21 (1) In solicitations where an award is to be made to the lowest
22 responsible bidder meeting specifications, the preference to small
23 business and microbusiness shall be 5 percent of the lowest
24 responsible bidder meeting specifications. The preference to
25 nonsmall business bidders that provide for small business or
26 microbusiness subcontractor participation shall be, up to a
27 maximum of 5 percent of the lowest responsible bidder meeting
28 specifications, determined according to rules and regulations
29 established by the Department of General Services.

30 (2) In solicitations where an award is to be made to the highest
31 scored bidder based on evaluation factors in addition to price, the
32 preference to small business or microbusiness shall be 5 percent
33 of the highest responsible bidder's total score. The preference to
34 nonsmall business bidders that provide for small business or
35 microbusiness subcontractor participation shall be up to a
36 maximum 5 percent of the highest responsible bidder's total score,
37 determined according to rules and regulations established by the
38 Department of General Services.

1 (3) The preferences under paragraphs (1) and (2) may not be
2 awarded to a noncompliant bidder and may not be used to achieve
3 any applicable minimum requirements.

4 (4) The preference under paragraph (1) may not exceed ~~fifty~~
5 *five hundred* thousand dollars ~~(\$50,000)~~ *(\$500,000)* for any bid,
6 and the combined cost of preferences granted pursuant to paragraph
7 (1) and any other provision of law may not exceed ~~one hundred~~
8 ~~thousand~~ *one million* dollars ~~(\$100,000)~~ *(\$1,000,000)*. In bids in
9 which the state has reserved the right to make multiple awards,
10 this ~~fifty five hundred~~ thousand dollar ~~(\$50,000)~~ *(\$500,000)*
11 maximum preference cost shall be applied, to the extent possible,
12 so as to maximize the dollar participation of small businesses,
13 including microbusiness, in the contract award.

14 (c) Give special consideration to small businesses and
15 microbusinesses by both:

16 (1) Reducing the experience required.

17 (2) Reducing the level of inventory normally required.

18 (d) Give special assistance to small businesses and
19 microbusinesses in the preparation and submission of the
20 information requested in Section 14310.

21 (e) Under the authorization granted in Section 10163 of the
22 Public Contract Code, make awards, whenever feasible, to small
23 business and microbusiness bidders for each project bid upon
24 within their prequalification rating. This may be accomplished by
25 dividing major projects into subprojects so as to allow a small
26 business or microbusiness contractor to qualify to bid on these
27 subprojects.

28 (f) Small business and microbusiness bidders qualified in
29 accordance with the provisions of this chapter shall have
30 precedence over nonsmall business bidders in that the application
31 of any bidder preference for which nonsmall business bidders may
32 be eligible under this provision or any other provision of law shall
33 not result in the denial of the award to a small business or
34 microbusiness bidder. In the event of a precise tie between the low
35 responsible bid of a bidder meeting specifications of a small
36 business or microbusiness, and the low responsible bid of a bidder
37 meeting the specifications of a disabled veteran-owned small
38 business or microbusiness, the contract shall be awarded to the
39 disabled veteran-owned small business or microbusiness. This
40 provision applies if the small business or microbusiness bidder is

- 1 the lowest responsible bidder, as well as if the small business or
- 2 microbusiness bidder is eligible for award as the result of
- 3 application of the small business and microbusiness bidder
- 4 preference granted by subdivision (b).

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