

AMENDED IN SENATE MARCH 27, 2012

SENATE BILL

No. 1510

Introduced by Senator Wright
(Coauthor: Assembly Member Perea)

February 24, 2012

An act to amend Section 14837 of the Government Code, relating to the Department of General Services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1510, as amended, Wright. Department of General Services: small business contracts.

The Small Business Procurement and Contract Act requires the Director of General Services and the heads of other state agencies that enter into contracts for the provision of goods, services, and information technology and for the construction of state facilities to establish goals for the participation of small businesses in these contracts, to provide for a small business preference in the award of these contracts, to give special consideration and special assistance to small businesses, and, whenever possible, to make awards to small businesses, as specified. The act authorizes the director to set standards, established by regulation, for ~~qualifications for participating businesses, and requires those standards to include a provision that~~ a certified small business or microbusiness ~~provide goods or services that~~ *to* contribute to the fulfillment of a contract *requirements* by performing a commercially useful function, as defined.

This bill would expand the definition to include additional conditions under which a certified small business or microbusiness is deemed to perform a commercially useful function.

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 14837 of the Government Code is
2 amended to read:
3 14837. As used in this chapter:
4 (a) “Department” means the Department of General Services.
5 (b) “Director” means the Director of General Services.
6 (c) “Manufacturer” means a business that meets both of the
7 following requirements:
8 (1) It is primarily engaged in the chemical or mechanical
9 transformation of raw materials or processed substances into new
10 products.
11 (2) It is classified between Codes 31 to 33, inclusive, of the
12 North American Industry Classification System.
13 (d) (1) “Small business” means an independently owned and
14 operated business that is not dominant in its field of operation, the
15 principal office of which is located in California, the officers of
16 which are domiciled in California, and which, together with
17 affiliates, has 100 or fewer employees, and average annual gross
18 receipts of ten million dollars (\$10,000,000) or less over the
19 previous three years, or is a manufacturer, as defined in subdivision
20 (c), with 100 or fewer employees.
21 (2) “Microbusiness” is a small business which, together with
22 affiliates, has average annual gross receipts of two million five
23 hundred thousand dollars (\$2,500,000) or less over the previous
24 three years, or is a manufacturer, as defined in subdivision (c),
25 with 25 or fewer employees.
26 (3) The director shall conduct a biennial review of the average
27 annual gross receipt levels specified in this subdivision and may
28 adjust that level to reflect changes in the California Consumer
29 Price Index for all items. To reflect unique variations or
30 characteristics of different industries, the director may establish,
31 to the extent necessary, either higher or lower qualifying standards
32 than those specified in this subdivision, or alternative standards
33 based on other applicable criteria.
34 (4) Standards applied under this subdivision shall be established
35 by regulation, in accordance with Chapter 3.5 (commencing with

1 Section 11340) of Part 1 of Division 3 of Title 2, and shall preclude
2 the qualification of businesses that are dominant in their industry.
3 In addition, the standards shall provide that the certified small
4 business or microbusiness shall provide goods or services that
5 contribute to the fulfillment of the contract requirements by
6 performing a commercially useful function, as defined below:

7 (A) A certified small business or microbusiness is deemed to
8 perform a commercially useful function if the business does all of
9 the following:

10 (i) (I) Is responsible for the execution of a distinct element of
11 the work of the contract.

12 (II) Carries out its obligation by actually performing, managing,
13 or supervising the work involved.

14 (III) Performs work that is normal for its business services and
15 functions.

16 (IV) Is responsible, with respect to materials and supplies
17 required for the contract, for negotiating price, determining quality
18 and quantity, ordering material, installing, if applicable, and paying
19 for the material *itself*.

20 (V) Is responsible for the accounts receivable of the business if
21 *and* the accounts receivable of the business are not directly or
22 indirectly controlled by a prime contractor.

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

26 (B) A contractor, subcontractor, or supplier will not be
27 considered to perform a commercially useful function if the
28 contractor's, subcontractor's, or supplier's role is limited to that
29 of an extra participant in a transaction, contract, or project through
30 which funds are passed in order to obtain the appearance of small
31 business or microbusiness participation.

32 (e) "Disabled veteran business enterprise" means an enterprise
33 that has been certified as meeting the qualifications established by
34 subdivision (g) of Section 999 of the Military and Veterans Code.