

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 172**

---

---

**Introduced by Assembly Member Weber**  
*(Principal coauthor: Senator Price)*

January 24, 2013

---

---

An act to amend Section 14838 of the Government Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 172, as amended, Weber. State agency contracts: microbusiness preference.

Existing law, the Small Business Procurement and Contract Act, provides for various programs to encourage the participation of small businesses, as certified by the Department of General Services, in state agency contracts, including a microbusiness and a disabled veteran business enterprise. Existing law requires directors of state agencies, in awarding prescribed contracts, to provide a 5% preference to small businesses and microbusinesses, and a preference of up to 5% to a non-small business that provides for small business or microbusiness subcontractor participation, not to exceed prescribed amounts.

This bill would raise the microbusiness preference to 7% and would raise the preference for a non-small business with microbusiness subcontractor participation to a maximum of 7%, *as provided*.

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

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

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

20 (1) In solicitations where an award is to be made to the lowest  
21 responsible bidder meeting specifications, the preference to small  
22 business shall be 5 percent, and the preference to microbusiness  
23 shall be 7 percent, of the lowest responsible bidder meeting  
24 specifications. The preference to nonsmall business bidders that  
25 provide for small business subcontractor participation shall be up  
26 to a maximum of 5 percent of the lowest responsible bidder  
27 meeting specifications, and the preference for nonsmall business  
28 bidders that provide for microbusiness subcontractor participation  
29 shall be up to a maximum of 7 percent of the lowest responsible  
30 bidder meeting specifications, determined according to rules and  
31 regulations established by the Department of General Services.

32 (2) In solicitations where an award is to be made to the highest  
33 scored bidder based on evaluation factors in addition to price, the  
34 preference to small business shall be 5 percent, and the preference  
35 to microbusiness shall be 7 percent, of the highest responsible  
36 bidder's total score. The preference to nonsmall business bidders  
37 that provide for small business subcontractor participation shall  
38 be up to a maximum 5 percent of the highest responsible bidder's

1 total score, and the preference to nonsmall business bidders that  
2 provide for microbusiness subcontractor participation shall be up  
3 to a maximum of 7 percent of the highest responsible bidder's total  
4 score determined according to rules and regulations established  
5 by the Department of General Services.

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

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

18 (c) Give special consideration to small businesses and  
19 microbusinesses by both:

20 (1) Reducing the experience required.

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

22 (d) Give special assistance to small businesses and  
23 microbusinesses in the preparation and submission of the  
24 information requested in Section 14310.

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

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

1 veteran-owned small business or microbusiness, the contract shall  
2 be awarded to the disabled veteran-owned small business or  
3 microbusiness. This provision applies if the small business or  
4 microbusiness bidder is the lowest responsible bidder, as well as  
5 if the small business or microbusiness bidder is eligible for award  
6 as the result of application of the small business and microbusiness  
7 bidder preference granted by subdivision (b).

O