

ASSEMBLY BILL

No. 1125

Introduced by Assembly Member Weber

February 27, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1125, as introduced, Weber. State agency contracts: small business.

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. Existing law provides, in solicitations where an award is made to the lowest responsible bidder, that the preferences shall not exceed \$50,000 for any bid and that the combined cost of preferences granted shall not exceed \$100,000. Existing law provides that, in bids in which the state has reserved the right to make multiple awards, the \$50,000 maximum preference cost shall be applied.

This bill would provide, in solicitations where an award is made to the lowest responsible bidder, that the preference to small business and microbusiness be 5% of the lowest responsible non-small business bidder meeting specifications and that the preference to non-small business

bidders that provide for small business or microbusiness subcontractor participation be up to a maximum of 5% of the lowest responsible non-small business bidder. This bill also would provide that the preference not exceed \$100,000 for any contract award and that the combined cost of preferences granted not exceed \$150,000. This bill would require that the \$100,000 maximum preference cost be applied in multiple contract awards.

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 alteration, demolition, repair, or improvement) of state
7 facilities, the directors of the department and other state agencies
8 that enter those contracts, each within their respective areas of
9 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 non-small 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 and microbusiness shall be 5 percent of the lowest
23 responsible *non-small business* bidder meeting specifications. The
24 preference to non-small business bidders that provide for small
25 business or microbusiness subcontractor participation shall be, up
26 to a maximum of 5 percent of the lowest responsible *non-small*
27 *business* bidder meeting specifications, determined according to

1 rules and regulations established by the Department of General
2 Services.

3 (2) In solicitations where an award is to be made to the highest
4 scored bidder based on evaluation factors in addition to price, the
5 preference to small business or microbusiness shall be 5 percent
6 of the highest responsible bidder's total score. The preference to
7 nonsmall business bidders that provide for small business or
8 microbusiness subcontractor participation shall be up to a
9 maximum 5 percent of the highest responsible bidder's total score,
10 determined according to rules and regulations established by the
11 Department of General Services.

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

15 (4) The preference under paragraph (1) shall not exceed ~~fifty~~
16 *one hundred* thousand dollars ~~(\$50,000)~~ *(\$100,000)* for any ~~bid,~~
17 *contract award*, and the combined cost of preferences granted
18 pursuant to paragraph (1) and any other provision of law shall not
19 exceed one hundred *fifty* thousand dollars ~~(\$100,000)~~. ~~In bids~~
20 *(\$150,000)*. *For contract awards* in which the state has reserved
21 the right to make multiple awards, this ~~fifty one hundred~~ thousand
22 dollar ~~(\$50,000)~~ *(\$100,000)* maximum preference cost shall be
23 applied, to the extent possible, so as to maximize the dollar
24 participation of small businesses, including microbusinesses, in
25 the contract award.

26 (c) Give special consideration to small businesses and
27 microbusinesses by both:

28 (1) Reducing the experience required.

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

30 (d) Give special assistance to small businesses and
31 microbusinesses in the preparation and submission of the
32 information requested in Section 14310.

33 (e) Under the authorization granted in Section 10163 of the
34 Public Contract Code, make awards, whenever feasible, to small
35 business and microbusiness bidders for each project bid upon
36 within their prequalification rating. This may be accomplished by
37 dividing major projects into subprojects so as to allow a small
38 business or microbusiness contractor to qualify to bid on these
39 subprojects.

1 (f) Small business and microbusiness bidders qualified in
2 accordance with this chapter shall have precedence over non-small
3 business bidders in that the application of a bidder preference for
4 which non-small business bidders may be eligible under this section
5 or any other provision of law shall not result in the denial of the
6 award to a small business or microbusiness bidder. In the event of
7 a precise tie between the low responsible bid of a bidder meeting
8 specifications of a small business or microbusiness, and the low
9 responsible bid of a bidder meeting the specifications of a disabled
10 veteran-owned small business or microbusiness, the contract shall
11 be awarded to the disabled veteran-owned small business or
12 microbusiness. This provision applies if the small business or
13 microbusiness bidder is the lowest responsible bidder, as well as
14 if the small business or microbusiness bidder is eligible for award
15 as the result of application of the small business and microbusiness
16 bidder preference granted by subdivision (b).

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