

**ASSEMBLY BILL**

**No. 2270**

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**Introduced by Assembly Member Bonta**

February 18, 2016

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An act to add Article 3 (commencing with Section 14848) to Chapter 6.5 of Part 5.5 of Division 3 of Title 2 of the Government Code, and to amend Section 10221 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2270, as introduced, Bonta. Public contracts: business development: statewide bonding program.

Existing law requires that public contracts with state agencies provide for the filing of separate performance and payment bonds by the contractor in the form of bonds executed by an admitted surety insurer, as provided.

This bill would establish, in the Department of General Services, a statewide contractor bonding program, to be administered by the Office of Small Business and Disabled Veteran Business Enterprise Services, for the purpose of enabling participating contractors to meet any applicable bid, payment, or performance bonding requirements for public contracts with state agencies. This bill would authorize the office to act as guarantor on surety bonds for participating contractors on contracts with state agencies and require the office to provide specified technical assistance to participating contractors. The bill would authorize the office to charge participating contractors fees for the provision of these services, not to exceed the amount necessary to cover the costs incurred in the administration of these provisions.

This bill would require the office to establish a request for the proposals process by which contractors may participate in the program as a participating contractor and to give preference to contractors that are disadvantaged business enterprises, small business enterprises, or disabled veteran business enterprises, as specified. The bill would authorize the office to terminate a contractor’s participation after a reasonable period of time if the contractor is no longer in compliance with the requirements of the program or suspend a participating contractor that defaults on a bond from transacting any business with the state for a period of not less than 3 years and not more than 10 years.

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. Article 3 (commencing with Section 14848) is  
2 added to Chapter 6.5 of Part 5.5 of Division 3 of Title 2 of the  
3 Government Code, to read:

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5 Article 3. Statewide Contractor Bonding Program

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7 14848. As used in this article, the following definitions shall  
8 apply:

9 (a) “Office” means the Office of Small Business and Disabled  
10 Veteran Business Enterprise Services established within the  
11 department pursuant to Section 14839.

12 (b) “Program” means the statewide contractor bonding program  
13 established pursuant to this chapter.

14 (c) “Participating contractor” means a person seeking to bid on  
15 a contract with a state agency that is required by law, including,  
16 but not limited to, Sections 10221 to 10225, inclusive, of the Public  
17 Contract Code, to acquire bonds to participate in those contracts  
18 and participate in the program.

19 14848.10. There is in the department a statewide contractor  
20 bonding program for the purpose of enabling participating  
21 contractors to meet any applicable bid, payment, or performance  
22 bonding requirements for public contracts with state agencies. The  
23 office shall be the entity to administer this program.

24 14848.20. The office may act as guarantor on a surety bond  
25 for a participating contractor on a contract with a state agency.

1 14848.30. (a) The office shall establish a request for proposals  
2 process by which contractors may participate in the program as  
3 participating contractors pursuant to this chapter.

4 (b) In considering requests for proposals for assistance pursuant  
5 to this article, the department shall give preference to contractors  
6 that are any of the following:

7 (1) A disadvantaged business enterprise, as defined in Section  
8 2051 of the Public Contract Code.

9 (2) A small business enterprise certified pursuant to Article 1  
10 (commencing with Section 14835).

11 (3) A disabled veteran business enterprise, as defined in Section  
12 999 of the Military and Veterans Code.

13 (c) (1) The office may terminate a contractor's participation in  
14 the program after a reasonable period of time if the contractor is  
15 no longer in compliance with the requirements of the program.

16 (2) The office may suspend a participating contractor that  
17 defaults on a bond issued pursuant to this article from transacting  
18 any business with the state either directly as a prime contractor or  
19 indirectly as a subcontractor, for a period of not less than three  
20 years and not more than 10 years. A contractor that was previously  
21 a participating contractor but was suspended pursuant to this  
22 paragraph may resume participation in the bonding program at the  
23 end of his or her suspension upon approval by the office.

24 14848.40. The office shall provide technical assistance to a  
25 participating contractor. Technical assistance provided pursuant  
26 to this section shall include, but is not limited to, all of the  
27 following:

28 (a) Assessment and identification of the particular barriers facing  
29 the participating contractor and development of solutions to those  
30 barriers. Activities pursuant to this subdivision may include the  
31 following:

32 (1) Assessments by surety and construction experts.

33 (2) Development of a business plan.

34 (3) Workshops addressing the following topics:

35 (A) Basic information pertaining to contractor bonding.

36 (B) Understanding the surety process and underwriting.

37 (C) The process for bidding on state projects.

38 (D) Addressing stop notices.

39 (E) Strategies for accessing capital.

40 (F) Prevailing wages.

1 (G) Job safety and the Occupational Safety and Health  
2 Administration.

3 (H) Certification.

4 (I) Any other topics that would be beneficial to the participating  
5 contractor.

6 (4) Project field support.

7 (b) Identification of and assistance in obtaining other financial  
8 support and resources. Activities pursuant to this subdivision may  
9 include the following:

10 (1) Linkages with accountants, brokers, and surety companies  
11 committed to helping contractors build bonding and organizational  
12 capacity.

13 (2) Pre-qualifications for additional assistance.

14 (3) Collateral guarantees.

15 (c) Monitoring and reporting on the progress of the participating  
16 contractor, including the following:

17 (1) Collaboration with other programs.

18 (2) Progress on any project for which a bond is issued pursuant  
19 to this article.

20 (3) Defaults on a bond issued pursuant to this article.

21 (4) Funds administration. Notwithstanding subdivision (b) of  
22 Section 14848.50, the office shall not charge a participating  
23 contractor fees for the purpose of this paragraph.

24 14848.50. (a) The department shall adopt rules and regulations  
25 necessary to implement the provisions of this article.

26 (b) The office may charge a participating contractor fees for the  
27 provision of services pursuant to this article. The fees shall not  
28 exceed the amount necessary to cover the costs incurred in the  
29 administration of this article.

30 SEC. 2. Section 10221 of the Public Contract Code is amended  
31 to read:

32 10221. Every contract shall provide for the filing of separate  
33 performance and payment bonds by the contractor in the form of  
34 bonds executed by *either* an admitted surety insurer *or the Office*  
35 *of Small Business and Disabled Veteran Business Enterprise*  
36 *Services pursuant to Section 14848.20 of the Government Code*  
37 and not deposits in lieu of bond, subject to the approval of the  
38 department.

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