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GOVERNMENT CODE - GOV

TITLE 1. GENERAL [100 - 7931.000] (Title 1 enacted by Stats. 1943, Ch. 134.)

DIVISION 5. PUBLIC WORK AND PUBLIC PURCHASES [4000 - 4563] (Division 5 enacted by Stats. 1943, Ch. 134.)

CHAPTER 10.5. Target Area Contract Preference Act [4530 - 4535.3] (Chapter 10.5 added by Stats. 1983, Ch. 323, Sec. 35.7.)

4530. This chapter shall be known as the "Target Area Contract Preference Act."

(Added by Stats. 1983, Ch. 323, Sec. 35.7. Effective July 1, 1983.)

4531. The Legislature hereby declares that it serves a public purpose, and is of benefit to the state, to encourage and facilitate job maintenance and job development in distressed and declining areas of cities and towns in the state. It is the intent of the Legislature to further these goals by providing appropriate preferences to California based companies submitting bids or proposals for state contracts to be performed at worksites in distressed areas by persons with a high risk of unemployment when the contract is for goods or services in excess of one hundred thousand dollars (\$100,000).

(Added by Stats. 1983, Ch. 323, Sec. 35.7. Effective July 1, 1983.)

4532. As used in this chapter:

(a) "California-based company" means either of the following:

(1) A business or corporation whose principal office is located in California, and the owners, or officers if the entity is a corporation, are domiciled in California.

(2) A business or corporation that has a major office or manufacturing facility located in California and that has been licensed by the state on a continuous basis to conduct business within the state and has continuously employed California residents for work within the state during the three years prior to submitting a bid or proposal for a state contract.

(b) "Distressed area" means a census tract determined by the Department of Finance, pursuant to Section 13073.5, to be in the top quartile of census tracts for having the highest unemployment and poverty in the state.

(c) "Person with a high risk of unemployment" means a person who:

(1) As a member of one of the eligible groups defined in Section 321 of Public Law 95-600, qualifies an employer who hires them for the federal Targeted Jobs Tax Credit. These groups are: economically disadvantaged youth, economically disadvantaged Vietnam-era veterans, economically disadvantaged ex-convicts, vocational rehabilitation referrals, youth participating in a qualified cooperative education program, recipients of supplemental security income benefits under Title XVI of the Social Security Act, and general assistance recipients.

(2) Would have qualified an employer hiring them for the federal Work Incentive/Welfare Tax Credit authorized by Section 322 of Public Law 95-600. These persons include applicants and recipients of aid to families with dependent children who would have registered for the federal Work Incentive Program, and aid to families with dependent children recipients who have been receiving welfare for at least 90 days.

(3) Is a member of a group identified in subdivision (j) of Section 14005 of the Unemployment Insurance Code.

(d) "Poverty" means the poverty level, as defined by the United States Department of Commerce, Bureau of the Census in the Federal Register, Volume 43, Number 87, for Thursday, May 4, 1978, at pages 19260–19269, and as periodically updated.

(e) "Worksite" means either of the following:

(1) A business located within a distressed area.

(2) A business located in directly adjoining census tract blocks that when attached to the distressed area forms a contiguous boundary. A company that intends to perform the work at a worksite described in this paragraph shall submit a map with the bid or proposal identifying where the worksite is located.

(Amended by Stats. 2021, Ch. 756, Sec. 3. (AB 1574) Effective January 1, 2022.)

4533. (a) Whenever the state prepares a solicitation for a contract for goods in excess of one hundred thousand dollars (\$100,000), except a contract in which the worksite is fixed by the provisions of the contract, the state shall award the following preferences:

(1) A workplace preference of 5 percent to California-based companies who demonstrate and certify under penalty of perjury that of the total labor hours required to manufacture the goods and perform the contract, at least 50 percent of the hours shall be accomplished at an identified worksite or worksites located in a distressed area.

(2) A workforce preference of between 1 percent and 5 percent, as specified in Section 4533.1, to California-based companies that demonstrate and certify under penalty of perjury that the workforce completing those labor hours are persons with a high risk of unemployment, as defined in Section 4532.

(b) The combined cost of preferences granted under this section shall not exceed one hundred thousand dollars (\$100,000) in total, pursuant to Section 4535.2.

(Amended by Stats. 2022, Ch. 28, Sec. 55. (SB 1380) Effective January 1, 2023.)

4533.1. Where a bidder complies with the provisions of Section 4533 or 4534, or the worksite or worksites where at least 50 percent of the labor required to perform the contract is within commuting distance of a distressed area, the state shall award a 1-percent preference for bidders who certify under penalty of perjury to hire persons with high risk of unemployment equal to 5 to 9 percent of its workforce during the period of contract performance; a 2-percent preference for bidders who shall agree to hire persons with high risk of unemployment equal to 10 to 14 percent of its workforce during the period of contract performance; a 3-percent preference for bidders who shall agree to hire persons with high risk of unemployment equal to 15 to 19 percent of its workforce during the period of contract performance; and a 4-percent preference for bidders who shall agree to hire persons with high risk of unemployment equal to 20 or more percent of its workforce during the period of contract performance.

(Amended by Stats. 2021, Ch. 756, Sec. 5. (AB 1574) Effective January 1, 2022.)

4534. (a) In evaluating proposals for contracts for services in excess of one hundred thousand dollars (\$100,000), except a contract in which the worksite is fixed by the provisions of the contract, the state shall award the following preferences:

(1) A workplace preference of 5 percent on the price submitted by California-based companies that demonstrate and certify under penalty of perjury that not less than 90 percent of the total labor hours required to perform the contract shall be accomplished at an identified worksite or worksites.

(2) A workforce preference of between 1 percent and 5 percent, as specified in Section 4533.1, to California-based companies that demonstrate and certify under penalty of perjury that the workforce completing those labor hours are persons with a high risk of unemployment, as defined in Section 4532.

(b) The combined cost of preferences granted under this section shall not exceed one hundred thousand dollars (\$100,000) in total, pursuant to Section 4535.2.

(Amended by Stats. 2022, Ch. 28, Sec. 56. (SB 1380) Effective January 1, 2023.)

4535. All state contracts issued to bidders who are awarded preferences under this chapter shall contain conditions to ensure that the contractor performs the contract at the location specified and meets any commitment to employ persons with high risk of unemployment.

(Added by Stats. 1983, Ch. 323, Sec. 35.7. Effective July 1, 1983.)

4535.1. A business that requests and is given the preference provided for in Section 4533, 4533.1, 4534, or 4534.1 by reason of having furnished a false certification, and which by reason of that certification has been awarded a contract to which it would not otherwise have been entitled, shall be subject to all of the following:

(a) Pay to the state any difference between the contract amount and what the state's cost would have been if the contract had been properly awarded.

(b) In addition to the amount specified in subdivision (a), be assessed a penalty in an amount of not more than 10 percent of the amount of the contract involved.

(c) Be ineligible to directly or indirectly transact any business with the state for a period of not less than six months and not more than 36 months.

Prior to the imposition of any sanction under this chapter, the contractor or vendor shall be entitled to a public hearing and to five days' notice of the time and place thereof. The notice shall state the reasons for the hearing.

(Amended by Stats. 2004, Ch. 277, Sec. 1. Effective January 1, 2005.)

4535.2. (a) The maximum preference and incentive a bidder may be awarded pursuant to this chapter and any other provision of law shall be 15 percent. However, in no case shall the maximum preference and incentive cost for a single preference under this chapter exceed fifty thousand dollars (\$50,000) for any bid, nor shall the combined cost of preferences and incentives granted pursuant to this chapter and any other provision of law exceed one hundred thousand dollars (\$100,000). In those cases where the 15-percent cumulated preference and incentive cost would exceed the one hundred thousand dollar (\$100,000) maximum preference and incentive cost limit, the one hundred thousand dollar (\$100,000) maximum preference and incentive cost limit shall apply.

(b) Notwithstanding the provisions of this chapter, small business bidders qualified in accordance with Section 14838 shall have precedence over nonsmall business bidders in that the application of any bidder preference for which nonsmall business bidders may be eligible, including the preference contained in this chapter, shall not result in the denial of the award to a small business bidder. This subdivision shall apply to those cases where the small business bidder is the lowest responsible bidder, as well as to those cases where the small business bidder is eligible for award as the result of application of the 5-percent small business bidder preference and incentive.

(Amended by Stats. 2021, Ch. 756, Sec. 7. (AB 1574) Effective January 1, 2022.)

4535.3. The Department of General Services, with the cooperation of the Employment Development Department, the Department of Industrial Relations and the Office of Planning and Research, and under the direction of the State and Consumer Services Agency, shall adopt appropriate rules, regulations, and guidelines to implement this chapter.

(Added by Stats. 1983, Ch. 323, Sec. 35.7. Effective July 1, 1983.)