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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 3. EXECUTIVE DEPARTMENT [11000 - 15990.3] (Division 3 added by Stats. 1945, Ch. 111.)

PART 5. DEPARTMENT OF TRANSPORTATION [14000 - 14463] (Heading of Part 5 amended by Stats. 1972, Ch. 1253.)

CHAPTER 2. Powers and Duties [14101 - 14181] (Chapter 2 added by Stats. 1945, Ch. 118.)

ARTICLE 1. General [14101 - 14111] (Article 1 added by Stats. 1945, Ch. 118.)

14101. The department shall contract with qualified architects and engineers for the performance of work when it is determined by the Director of Transportation, with the approval of the Director of Finance, that the obtainable staff is unable to perform the particular work within the time the public interest requires such work to be done.

(Amended by Stats. 1980, Ch. 212.)

14102. The State Energy Resources Conservation and Development Commission, in consultation with the department, shall study the potential cost-effectiveness and energy efficiency of utilizing retroreflective sheeting materials on highway signs. In completing the study, that commission shall review any existing studies to the extent feasible and report its findings to the Legislature on or before May 1, 2002.

(Added by Stats. 2001, Ch. 825, Sec. 3.5. Effective January 1, 2002.)

14103. The department may prepare, publish, and issue such printed pamphlets and bulletins as the director deems necessary for the dissemination of information to the public concerning the activities of the several divisions of the department. Funds available for the support of the several divisions may, with the approval of the Department of Finance, be used to pay the cost of preparation, publication, and distribution.

(Added by Stats. 1945, Ch. 118.)

14104. The department may employ such assistance as may be necessary for the proper discharge of its duties, and may purchase or rent any necessary supplies, instruments, tools, equipment, and conveniences.

(Amended by Stats. 1955, Ch. 1409.)

14104.5. Where work to be performed, excluding regular maintenance work, which would otherwise be subject to the State Contract Act, does not lend itself to the preparation of plans and specifications to enable bids to be taken on a lump sum or unit basis, and the director so finds, the department may perform such work by the use of rented tools or equipment, either with operators furnished or unoperated. Contracts for such work may include provision for equipment rental and in addition the furnishing of labor and materials necessary to accomplish the work. Such contracts shall not be subject to the State Contract Act, but shall be subject to all of the provisions of Section 136.5 of the Streets and Highways Code, and of Article 2, Chapter 1, Part 7, Division 2 (commencing at Section 1770) of the Labor Code.

(Amended by Stats. 1957, Ch. 605.)

14105. (a) The department may verify that all construction projects performed under its jurisdiction meet or exceed all standards and specifications included in the projects.

(b) Unless a contract provides that a contractor or service provider will perform quality control under the contract, the department may assign qualified state employees or other persons, subject to existing law, to perform all inspection and testing required under existing law, regulation, or policy on any project performed under its jurisdiction that requires the inspection of construction activity or material, including, but not limited to, commercial and fabricated material.

(c) If no other law or regulation requires inspection and testing, the department may adopt and enforce a strict policy requiring inspection of construction activity or material, including, but not limited to, commercial and fabricated material.

(d) Any contractor or service provider who performs quality control inspections and tests as part of a contract with the department shall be certified on a prescribed random basis by qualified state employees or an organization certified by the department pursuant to applicable law, regulation, or policy.

(e) Quality assurance testing and inspection shall be performed over the entire period of a contract.

(f) Nothing in this section is intended to expand or restrict the authority of the department to contract for the provision of construction, inspection, management, and testing services from qualified private sector firms.

(g) No person shall willfully conceal, alter, misrepresent, or distort, or attempt to conceal, alter, misrepresent, or distort the findings of any laboratory or subcontractor that provides quality control inspection and testing services to a contractor under this section.

(1) If the prime contractor is not found to have concealed, altered, misrepresented, or distorted, or attempted to conceal, alter, misrepresent, or distort the findings of any laboratory or subcontractor by reason of having a subcontractor perform inspection and testing services, then the prime contractor is not considered to be in violation of this section.

(2) Whenever any person, firm, corporation, partnership, or association performing quality control inspection and testing services on a public work contract, pursuant to Section 1101 of the Public Contract Code, and is under the jurisdiction of the department, is found by the department to have violated this section, the department shall order for a period of not less than one year and not more than three years that the person or entity refrain from doing any of the following within the department's jurisdiction:

(A) Bid on a public work contract.

(B) Work on a public work contract.

(C) Be awarded a public work contract.

(3) Any determination by the department pursuant to paragraph (2) shall be made after a full investigation by the department and a fair and impartial hearing with reasonable notice. The periods of disqualification specified in this section shall commence on the date the determination of the violation is made by the department.

(4) A violation of this section occurs when the person, firm, corporation, partnership, association, or officers commit any one or more of the acts described in subdivision (g).

(5) The department may promulgate rules and regulations for the administration and enforcement of this section and provide for the definition of terms.

(Added by Stats. 2000, Ch. 1034, Sec. 1. Effective January 1, 2001.)

14105.6. (a) The department shall prepare a detailed plan that shall include steps the department will take to ensure that it is in conformance with its policies to prevent discrimination or preferences in its employing practices or its practices in bidding and awarding public contracts to provide equal access to opportunities for all qualified applicants, and shall report the plan to the Legislature and shall report updates to the plan, as necessary.

(b) All reports to the Legislature required by this section shall be submitted in conformance with Section 9795.

(Added by Stats. 2017, Ch. 95, Sec. 3. (SB 103) Effective July 21, 2017.)

14106. (a) Any toll revenues generated from a managed lane on the state highway system that is administered by a local agency shall be expended only within the respective corridor in which the managed lane is located.

(b) "Managed lane" means either of the following:

(1) A high-occupancy toll lane, which is a dedicated lane that is free for vehicles carrying a minimum number of occupants, but which allows vehicles containing less than the minimum number of occupants to use the lane upon payment of a toll.

(2) An express toll lane, which is a dedicated lane that requires all vehicles to pay a toll in order to use the lane, but may provide for vehicles carrying a minimum number of occupants to pay a discounted toll.

(Added by Stats. 2014, Ch. 500, Sec. 1. (AB 2250) Effective January 1, 2015.)

14108. (a) Notwithstanding Section 10231.5, the department shall annually compile and report information to the Legislature on or before October 1 of each year, beginning in 2025, regarding the zero-emission vehicles that the department purchases, owns, or leases, including, but not limited to, all of the following information:

(1) The number of zero-emission vehicles in each weight class categorized by fuel source type that the department owns or leases as of July 1 of each year.

(2) The number of zero-emission vehicles in each weight class categorized by fuel source type that the department purchased in the preceding fiscal year.

(3) The average purchase price of a zero-emission vehicle in each weight class categorized by fuel source type.

(4) The average time for the department to receive a zero-emission vehicle in each weight class categorized by fuel source type from order placement to vehicle delivery.

(b) In each report required pursuant to subdivision (a), the department shall conduct an analysis of the duty performance of the zero-emission vehicles that it acquires categorized by weight class. The analysis shall include, but is not limited to, all of the following information:

(1) The number of zero-emission vehicles required to perform the duties of a single conventionally fueled vehicle that is replaced by a zero-emission vehicle.

(2) A comparison of the final cost, including upfittings and the installation of other required equipment, of a zero-emission vehicle acquired to replace a single conventionally fueled vehicle.

(3) The ability of a zero-emission vehicle to complete the duties of a conventionally fueled vehicle that is replaced by the zero-emission vehicle in the course of a shift during which those vehicles are used.

(c) In each report required pursuant to subdivision (a), the department shall include information on its zero-emission vehicle charging and refueling stations, including, but not limited to, all of the following information:

(1) The number of charging and refueling stations in each district of the department categorized by fuel source type currently owned, operated, or leased by the department as of July 1 of each year.

(2) The number of charging and refueling stations in each district of the department categorized by fuel source type currently planned, in project development, or under construction by the department as of July 1 of each year.

(3) The average time in days required for the department to complete the procurement or construction of a charging or refueling station. The period shall be measured from project initiation to commencement of unit operation for each charging or refueling station.

(4) The total project cost for each charging or refueling station.

(d) For the purposes of this section, "weight class" means the category of a vehicle's gross vehicle weight rating (GVWR) and includes all of the following weight classes:

(1) "Light duty," which means a GVWR less than or equal to 8,500 pounds.

(2) "Class 2b," which means a GVWR greater than 8,500 pounds and less than or equal to 10,000 pounds.

(3) "Class 3," which means a GVWR greater than 10,000 pounds and less than or equal to 14,000 pounds.

(4) "Class 4," which means a GVWR greater than 14,000 pounds and less than or equal to 16,000 pounds.

(5) "Class 5," which means a GVWR greater than 16,000 pounds and less than or equal to 19,500 pounds.

(6) "Class 6," which means a GVWR greater than 19,500 pounds and less than or equal to 26,000 pounds.

(7) "Class 7," which means a GVWR greater than 26,000 pounds and less than or equal to 33,000 pounds.

(8) "Class 8," which means a GVWR greater than 33,000 pounds.

(e) (1) Each report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795.

(2) The department shall post each report required pursuant to subdivision (a) on its internet website in a manner that can be downloaded and shall also post a telephone number on the internet website to call to order a hard copy of the report from the department.

(f) This section shall remain in effect only until January 1, 2036, and as of that date is repealed.

(Added by Stats. 2024, Ch. 53, Sec. 4. (AB 173) Effective July 2, 2024. Repealed as of January 1, 2036, by its own provisions.)

14110. Consistent with federal and state laws and regulations, including, but not limited to, the department's goal setting methodology as approved by the Federal Highway Administration, the department shall develop a plan by January 1, 2020, to increase by up to 100 percent the dollar value of contracts and procurements awarded to small businesses, disadvantaged business enterprises, and disabled veteran business enterprises. The plan shall include the use of targeted media, including minority and women business enterprises, to outreach to these businesses and shall be provided to the Legislature pursuant to Section 9795.

(Added by Stats. 2017, Ch. 5, Sec. 4. (SB 1) Effective April 28, 2017.)

14110.1. (a) (1) The department shall develop and submit to the Legislature, by January 1, 2019, a detailed outreach plan intended to increase procurement opportunities for new and limited contracting small business enterprises, including, but not limited to, those owned by women, minority, disabled veterans, LGBT, and other disadvantaged groups, in all the department's transportation programs, including, but not limited to, state road repairs, bridge repair and maintenance, trade corridors, congestion commute corridors, and local partnerships.

(2) The department shall update the outreach plan based on the outcome of any disparity study undertaken every three years as part of the federal Disadvantaged Business Enterprise Program (Part 26 of Title 49 of the Code of Federal Regulations).

(b) The department shall undertake all of the following outreach activities, which shall be included in the plan:

(1) Sponsor, fund, or partner with apprenticeship programs, including those engaged in specific efforts to increase participation in the transportation construction industry of all groups, including, but not limited to, women, minorities, LGBT, disabled veterans, disadvantaged youth, and formerly incarcerated individuals.

(2) Host, fund, or partner with organizations that host workshops, training classes, and other activities around the state focused on opportunities to contract with the department. Contracting opportunities discussed may include, but shall not be limited to, construction, communication, and consulting services in the areas of engineering, environmental, and surveying services.

(3) Sponsor meetings to introduce prime contractors to new and limited contracting small business enterprises, including, but not limited to, those owned by women, minority, disabled veterans, LGBT, and other disadvantaged groups.

(4) Sponsor opportunities, including, but not limited to, prebid meetings and the department's Calmentor program, to increase contacts between prime contractors and new and limited contracting small business enterprises, including, but not limited to, those owned by women, minority, disabled veterans, LGBT, and other disadvantaged groups.

(5) Partner with organizations representing persons and business enterprises from underrepresented groups, including, but not limited to, women, minority, disabled veterans, LGBT, and other disadvantaged groups, in a manner that will inform members of these organizations on opportunities to participate in transportation contracts.

(c) By January 1, 2019, the department shall submit the outreach plan prepared pursuant to paragraph (1) of subdivision (a), and each update thereafter, to the California Legislative Black Caucus, California Latino Legislative Caucus, California Asian Pacific Islander Legislative Caucus, California Legislative Lesbian, Gay, Bisexual, and Transgender Caucus, and California Legislative Women's Caucus.

(d) The department shall annually report to the Legislature, pursuant to Section 14110.2, the percentages of entities receiving public contracts from the department, disaggregated by classifications, including, but not limited to, new and limited contracting enterprises, and women, minority, disabled veteran, and LGBT business enterprises, and further disaggregated within each of these classifications by contract size categories, as determined by the department.

(e) All reports to the Legislature required by this section shall be submitted in conformance with Section 9795.

(f) The Inspector General of the Independent Office of Audits and Investigations shall review, audit, and report on the department's outreach efforts required by this section. In addition, the Inspector General shall audit businesses as appropriate to ensure that persons associated with entities that do not meet the definition of a new or limited contracting small business enterprise do not create a new associated entity that would meet the definition of a new or limited contracting small business enterprise and thereby subvert the purposes of this section.

(g) For purposes of this section, the following terms have the following meanings:

(1) "Limited contracting small business enterprise" means a certified small business, as defined in Section 14837, that has received fewer than five public contracts from the department in the previous two years or has received public contracts from the department totaling less than two hundred fifty thousand dollars (\$250,000) in the previous two years.

(2) "New small business enterprise" means a certified small business, as defined in Section 14837, that has not received a public contract from the department in the previous two years.

(Added by Stats. 2017, Ch. 95, Sec. 4. (SB 103) Effective July 21, 2017.)

14110.2. (a) The department shall collect voluntarily reported data on groups of interest awarded public contracts by the department, including, but not limited to, women, minority, LGBT, and disabled veteran business enterprises.

(b) The department shall report the information collected pursuant to subdivision (a) annually to the Legislature in conformance with Section 9795.

(Added by Stats. 2017, Ch. 95, Sec. 5. (SB 103) Effective July 21, 2017.)

14110.3. The department shall achieve, at a minimum, an overall rate of 25 percent certified small business participation in state-funded contracts and procurements. For purposes of this section, "small business" has the same meaning as set forth in Section 14837.

(Added by Stats. 2017, Ch. 95, Sec. 6. (SB 103) Effective July 21, 2017.)

14110.4. (a) Beginning with the 2018–19 fiscal year, the department shall take all lawful and reasonable steps to raise the disparity indices for contracts awarded under the federal Disadvantaged Business Enterprise Program (Part 26 of Title 49 of the Code of Federal Regulations) to 100 for contracts and procurements subject to federal participation requirements, with particular emphasis on those minorities that exhibit substantial disparities with the indices, consistent with federal laws and regulations and subdivision (e) of Section 31 of Article I of the California Constitution.

(b) The department shall implement the recommendations from every disparity study undertaken as part of the federal Disadvantaged Business Enterprise Program (Part 26 of Title 49 of the Code of Federal Regulations), consistent with federal laws and regulations and subdivision (e) of Section 31 of Article I of the California Constitution.

(Added by Stats. 2017, Ch. 95, Sec. 7. (SB 103) Effective July 21, 2017.)

14110.5. (a) The department shall create a web page on its internet website that contains links to existing registries and databases related to drayage trucks from all of the following sources:

(1) The State Air Resources Board's online truck reporting systems.

(2) The Port Drayage Truck Registry that is part of the Clean Trucks Program at the Port of Los Angeles and Port of Long Beach.

(3) Data maintained by the California Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project regarding the recipients of subsidies for the purchase of drayage trucks for operation at ports from that project.

(4) Truck make and model reported pursuant to the South Coast Air Quality Management District Warehouse Indirect Source Rule.

(5) Compliance status of trucks under the Heavy-Duty Vehicle Inspection and Maintenance Program (Chapter 5.5 (commencing with Section 44150) of Part 5 of Division 26 of the Health and Safety Code).

(6) Data made available pursuant to subdivision (b) of this section and Sections 157 and 2810.4 of the Labor Code.

(b) (1) All maritime ports with annual cargo volumes of greater than 1,000,000 20-foot equivalent units shall anonymously survey trucking companies every two years on the number of drivers classified as independent contractors and the number of drivers classified as employee drivers.

(2) Survey data described in paragraph (1) shall be posted on the maritime ports' internet websites.

(3) Maritime ports subject to this section shall transmit the link to the data collected pursuant to paragraph (1) to the department.

(4) Nothing in this section shall require maritime ports to collect information identifying individual companies or drivers, confidential information, or trade secrets.

(5) Maritime ports shall not condition entry into their facilities on the basis of survey responsiveness or information contained therein.

(Added by Stats. 2022, Ch. 458, Sec. 2. (AB 2057) Effective January 1, 2023.)

14111. (a) (1) The department shall develop an implementation plan for the use and integration of digital construction management technologies for use on a transportation infrastructure project. The implementation guide shall include a timeline of the development

of guidance, policies, and procedures to use digital construction management technologies from preconstruction to asset life cycle and a description of any metrics or data necessary to quantify the benefits of using this technology.

(2) The department shall post the implementation plan on its internet website by January 1, 2024.

(b) (1) The goal of the implementation plan is to begin using digital construction management technologies on transportation infrastructure projects, when deemed appropriate by the department, by July 1, 2029.

(2) The implementation plan shall include the following milestone goals:

(A) Development and posting on the department's internet website of guidance, policies, and procedures to use digital construction management technologies by January 1, 2025.

(B) Begin using digital construction management technologies during the predevelopment stage of project development by July 1, 2026.

(C) Begin using digital construction management technologies through final design of project development by January 1, 2028.

(D) Begin using digital construction management technologies through construction by July 1, 2029.

(c) This section shall only apply to transportation infrastructure projects planned, programmed, designed, built, or managed by the department.

(d) By December 1, 2029, the department shall submit a report to the Legislature in compliance with Section 9795, which shall include, at a minimum, all of the following:

(1) The status of the implementation of digital construction management technologies.

(2) Relevant details of any projects using or planning to use digital construction management technologies.

(3) Expected or actual quantifiable benefits from the use of digital construction management technologies as identified by the department pursuant to its implementation plan.

(4) Any challenges or barriers to the implementation of the use of digital construction management technologies.

(e) For purposes of this section, "digital construction management technologies" means cloud-based mobile platforms used on construction sites by owners and contractors for the collection and organization of and managed accessibility to, accurate data and information related to a construction project, including for project site preparation, field execution, construction project management, document management, coordination and collaboration among stakeholders, inspection, and commissioning and handover to owner.

(f) This section shall remain in effect only until January 1, 2032, and as of that date is repealed.

(Added by Stats. 2022, Ch. 493, Sec. 2. (AB 1037) Effective January 1, 2023. Repealed as of January 1, 2032, by its own provisions.)