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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 5.5. DEPARTMENT OF GENERAL SERVICES [14600 - 14985.11] (Part 5.5 added by Stats. 1965, Ch. 371.)

CHAPTER 6.5. Small Business Procurement and Contract Act [14835 - 14847] (Chapter 6.5 added by Stats. 1973, Ch. 1198.)

ARTICLE 1. General Provisions [14835 - 14844] (Article 1 heading added by Stats. 1998, Ch. 917, Sec. 1.)

[14835.](#) This chapter shall be known and may be cited as the Small Business Procurement and Contract Act.

(Added by Stats. 1973, Ch. 1198.)

[14836.](#) (a) The Legislature hereby declares that it serves a public purpose, and it is of benefit to the state, to promote and facilitate the fullest possible participation by all citizens in the affairs of the State of California in every possible way. It is also essential that opportunity is provided for full participation in our free enterprise system by small business enterprises.

(b) Further, it is the declared policy of the Legislature that the state should aid, counsel, assist, and protect, to the maximum extent possible, the interests of small business concerns, including microbusinesses, in order to preserve free competitive enterprise and to ensure that a fair proportion of the total purchases and contracts or subcontracts for property and services for the state.

(c) In supporting the success of California small businesses, the state economy is strengthened by the diversity and resiliency of its small businesses and it is essential to ensure all small businesses are able to fully participate in the domestic and global markets, including, but not limited to, businesses owned by women, disabled individuals, people who identify as LGBTQ, immigrants, and socially and economically disadvantaged individuals.

(Amended by Stats. 2022, Ch. 730, Sec. 4. (AB 2019) Effective January 1, 2023.)

[14836.1.](#) The Legislature finds and declares that this chapter is a state law that provides assistance and services for persons regardless of immigration status within the meaning of Section 1621(d) of Title 8 of the United States Code.

(Added by Stats. 2024, Ch. 407, Sec. 1. (AB 2543) Effective January 1, 2025.)

[14837.](#) As used in this chapter:

(a) "Department" means the Department of General Services.

(b) "Director" means the Director of General Services.

(c) "Manufacturer" means a business that meets both of the following requirements:

(1) It is primarily engaged in the chemical or mechanical transformation of raw materials or processed substances into new products.

(2) It is classified between Codes 31 to 33, inclusive, of the North American Industry Classification System.

(d) (1) (A) "Small business" means an independently owned and operated business that is not dominant in its field of operation, the principal office of which is located in California, the officers of which are domiciled in California, and which, together with affiliates, has 100 or fewer employees, and average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three years, or is a manufacturer, as defined in subdivision (c), with 100 or fewer employees. Commencing January 1, 2019, the average annual gross receipts threshold shall be fifteen million dollars (\$15,000,000).

(B) For the purposes of public works contracts, as defined in Section 1101 of the Public Contract Code, and engineering contracts, as described in Section 4525, for public works projects, awarded through competitive bids or otherwise, "small

business" means an independently owned and operated business that is not dominant in its field of operation, the principal office of which is located in California, the officers of which are domiciled in California, and which, together with affiliates, has 200 or fewer employees, and average annual gross receipts of thirty-six million dollars (\$36,000,000) or less over the previous three years. This subparagraph shall become operative on January 1, 2019.

(2) "Microbusiness" is a small business which, together with affiliates, has average annual gross receipts of two million five hundred thousand dollars (\$2,500,000) or less over the previous three years, or is a manufacturer, as defined in subdivision (c), with 25 or fewer employees. Commencing January 1, 2019, the average annual gross receipts threshold shall be five million dollars (\$5,000,000).

(3) (A) The director shall conduct a biennial review of the average annual gross receipt levels specified in this subdivision and may adjust that level to reflect changes in the California Consumer Price Index for all items.

(B) Commencing January 1, 2019, the director shall conduct the biennial review and make that adjustment. To reflect unique variations or characteristics of different industries, the director may establish, to the extent necessary, either higher or lower qualifying standards than those specified in this subdivision, or alternative standards based on other applicable criteria.

(4) Standards applied under this subdivision shall be established by regulation, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, and shall preclude the qualification of businesses that are dominant in their industry. In addition, the standards shall provide that the certified small business or microbusiness shall provide goods or services that contribute to the fulfillment of the contract requirements by performing a commercially useful function, as defined below:

(A) A certified small business or microbusiness is deemed to perform a commercially useful function if the business does all of the following:

(i) Is responsible for the execution of a distinct element of the work of the contract.

(ii) Carries out its obligation by actually performing, managing, or supervising the work involved.

(iii) Performs work that is normal for its business services and functions.

(iv) Is responsible, with respect to products, inventories, materials, and supplies required for the contract, for negotiating price, determining quality and quantity, ordering, installing, if applicable, and making payment.

(v) Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

(B) A contractor, subcontractor, or supplier will not be considered to perform a commercially useful function if the contractor's, subcontractor's, or supplier's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of small business or microbusiness participation.

(e) "Disabled veteran business enterprise" means an enterprise that has been certified as meeting the qualifications established by paragraph (7) of subdivision (b) of Section 999 of the Military and Veterans Code.

(Amended by Stats. 2017, Ch. 673, Sec. 3. (SB 605) Effective January 1, 2018.)

14838. In order to facilitate the participation of small business, including microbusiness, in the provision of goods, information technology, and services to the state, and in the construction, including alteration, demolition, repair, or improvement, of state facilities, the directors of the department and other state agencies that enter those contracts, each within their respective areas of responsibility, shall do all of the following:

(a) Establish a minimum goal of 25 percent procurement participation for small businesses, including microbusinesses, in the provision of goods, information technology, and services to the state, and in the construction of state facilities.

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

(1) In solicitations where an award is to be made to the lowest responsible bidder meeting specifications, the preference to small business and microbusiness shall be 5 percent of the lowest responsible bidder meeting specifications. The preference to nonsmall business bidders that provide for small business or microbusiness subcontractor participation shall be, up to a maximum of 5 percent of the lowest responsible bidder meeting specifications, determined according to rules and regulations established by the Department of General Services.

(2) In solicitations where an award is to be made to the highest scored bidder based on evaluation factors in addition to price, the preference to small business or microbusiness shall be 5 percent of the highest responsible bidder's total score. The preference to

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

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

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

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

(1) Reducing the experience required.

(2) Reducing the level of inventory normally required.

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

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

(f) Make continuous efforts to expand the pool of small businesses and microbusinesses that participate in the department's and other state agencies' contracts by regularly seeking out and identifying small businesses and microbusinesses that have not previously done business with the department or other state agency or that are not regularly used by the department or other state agency, and including those small businesses and microbusinesses in the agency's solicitations.

(g) Small business and microbusiness bidders qualified in accordance with this chapter shall have precedence over nonsmall business bidders in that the application of a bidder preference for which nonsmall business bidders may be eligible under this section or any other provision of law shall not result in the denial of the award to a small business or microbusiness bidder. In the event of a precise tie between the low responsible bid of a bidder meeting specifications of a small business or microbusiness, and the low responsible bid of a bidder meeting the specifications of a disabled veteran-owned small business or microbusiness, the contract shall be awarded to the disabled veteran-owned small business or microbusiness. This provision applies if the small business or microbusiness bidder is the lowest responsible bidder, as well as if the small business or microbusiness bidder is eligible for award as the result of application of the small business and microbusiness bidder preference granted by subdivision (b).

(h) If the directors of the department and other state agencies that enter into those contracts are unable to reach the goals established under subdivision (a) in the year in which the changes made by the act that added this subdivision become operative, the directors of the department and other state agencies may count towards that goal, contracts with firms that would be considered a small business or microbusiness under the amendments made to Section 14837 by the act adding this subdivision. This subdivision shall become operative on January 1, 2019.

(Amended by Stats. 2022, Ch. 730, Sec. 5. (AB 2019) Effective January 1, 2023.)

14838.1. (a) In order to encourage the participation of small businesses in the construction, alteration, demolition, repair, or improvement of the state's infrastructure, as provided in the infrastructure-related bond acts of 2006, each state agency awarding contracts financed with the proceeds of these bonds shall do all of the following:

(1) Establish a 25 percent small business participation goal in all contracts it financed with the proceeds of the infrastructure-related bond acts of 2006.

(2) Advertise all upcoming opportunities to bid on contracts for projects funded by the infrastructure-related bond acts of 2006, described in subdivision (d), in the California State Contracts Register and include in the advertisement an internet link to information for prospective bidders, including, but not limited to, general bidding procedures and how to properly prepare a bid for those contracts.

(3) Provide information to California small businesses regarding training and technical assistance that is available to assist these small businesses in understanding and bidding on contracts for projects funded by the infrastructure-related bond acts of 2006, described in subdivision (d).

- (b) (1) In order to encourage the participation of small businesses in the construction, alteration, demolition, repair, or improvement of the state's infrastructure, as provided in the Infrastructure Investment and Jobs Act (Public Law 117-58), as described in subdivision (e), each state agency awarding new contracts over five hundred thousand dollars (\$500,000) that are financed, in whole or in part, with the proceeds of the act, shall do all of the following:
- (A) Establish a 25 percent small business participation goal in all contracts that it finances, in whole or in part, with these federal funds.
 - (B) Beginning April 1, 2023, notify the agency's small business liaison, designated pursuant to Section 14846, of any anticipated contracting opportunities that will be paid, in whole or in part, with funding from the Infrastructure Investment and Jobs Act during the 12 months following April 1, 2023.
- (2) The agency small business liaison shall provide information to California small businesses regarding training and technical assistance that is available to assist them in identifying, understanding, and bidding on contracts for projects funded through the agency with Infrastructure Investment and Jobs Act funding, as described in subdivision (e).
- (c) The requirements of subdivision (b) do not apply to funding from the Infrastructure Investment and Jobs Act if the head of the state agency or their designee makes one of the following determinations:
- (1) Federal requirements preclude small business procurement participation as required by this section.
 - (2) The bid issued by the state agency is required to include a disadvantaged business enterprise procurement participation requirement.
 - (3) In the case of competitively awarded funding from the federal government, if compliance with the requirements of this section would make the state's application for a competitive program less competitive than other eligible applicants.
- (d) For purposes of this section, all of the following measures are deemed to be the infrastructure-related bond acts of 2006:
- (1) The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1).
 - (2) The Housing and Emergency Shelter Trust Fund Act of 2006 (Part 12 (commencing with Section 53540) of Division 31 of the Health and Safety Code).
 - (3) The Kindergarten-University Public Education Facilities Bond Act of 2006 (Part 69 (commencing with Section 101000) of Division 14 of Title 3 of the Education Code).
 - (4) The Disaster Preparedness and Flood Prevention Bond Act of 2006 (Chapter 1.699 (commencing with Section 5096.800) of Division 5 of the Public Resources Code).
 - (5) The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001) of the Public Resources Code).
- (e) For purposes of this section, funding awarded to the state from the following subtitles, titles, and divisions of the Infrastructure Investment and Jobs Act shall be deemed to be federal revenues:
- (1) Division A, the Surface Transportation Reauthorization Act of 2021 (23 U.S.C. Sec. 101 et seq.).
 - (2) Division B, the Surface Transportation Investment Act of 2021 (49 U.S.C. Sec. 101 et seq.).
 - (3) Division E, the Drinking Water and Wastewater Infrastructure Act of 2021 (33 U.S.C. Sec. 1251 et seq.).
 - (4) Division F, Broadband (47 U.S.C. Sec. 1701 et seq.).
 - (5) Title IX of Division G, the Build America, Buy America Act (41 U.S.C. Sec. 8301 et seq.).
- (f) For purposes of this section, all of the following shall apply:
- (1) "Small business" has the same meaning as set forth in subdivision (d) of Section 14837.
 - (2) "State agency" includes each agency provided for in Section 12800 and each state entity in Section 10335.7 of the Public Contract Code in which the head of the agency is appointed by the Governor.
- (g) This section does not require the expenditure of the proceeds of the sale of the bonds described in this section, except as permitted by the measure authorizing the issuance of the bond.
- (h) For purposes of subdivision (c), the Director of Transportation or their designee may make a determination that a class or category of contracts is exempt from the requirement of subdivision (b). Nothing in this subdivision shall be construed to require the

head of the Department of Transportation or their designee to make a determination for each individual contract.

(i) (1) On or before August 1, 2009, and annually thereafter, each state agency that has awarded any contract financed with the proceeds of the infrastructure-related bond acts of 2006 or the Infrastructure Investment and Jobs Act in the previous fiscal year shall report to the Director of General Services statistics comparing the small business and microbusiness participation dollars for contracts funded by these bonds or federal dollars to the total contract dollars for contracts funded by these bonds or federal dollars.

(2) If an agency did not meet its participation goal, then the agency shall include in its report a plan of action to meet its participation goal during the current fiscal year. These reporting requirements do not supersede any other reporting requirements required of these funds.

(3) In each instance that the head of the state agency makes a determination pursuant to subdivision (c), the state agency shall report this determination to the Director of General Services in a manner to be determined by the department.

(Amended by Stats. 2023, Ch. 131, Sec. 79. (AB 1754) Effective January 1, 2024.)

14838.2. The Legislature finds and declares all of the following:

(a) Market demand is a driving factor in determining profitability of California companies and the ability of those companies to invest in business growth.

(b) The onset of COVID-19 and the subsequent economic downturn and recession has laid bare considerable social and economic inequities, and, overall, nearly one-half of all small businesses face permanent closure, with women-owned, minority-owned, and LGBTQ-owned businesses facing even higher foreclosure thresholds.

(c) The current economic recession caused by COVID-19 is hitting our minority and disadvantaged communities the hardest.

(d) California companies are often at a competitive disadvantage when responding to public contract proposals from government agencies because of factors associated with higher taxes, wages, rents, labor benefits, and insurance rates.

(e) The competitiveness of California companies is also impacted as a result of in-state business preference policies that exist in other states.

(Amended by Stats. 2022, Ch. 730, Sec. 6. (AB 2019) Effective January 1, 2023.)

14838.4. No small business preference shall be allowed if allowing the small business preference would result in a computed bid of the preference recipient which would exceed the amount of funds appropriated by the Legislature for the construction project, plus any augmentation that may be made by the State Public Works Board pursuant to authority granted in the annual Budget Act.

(Added by Stats. 1982, Ch. 586, Sec. 1.)

14838.5. (a) Notwithstanding the advertising, bidding, and protest provisions of Chapter 6 (commencing with Section 14825) of this part and Chapter 2 (commencing with Section 10290) and Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code, a state agency may award a contract for the acquisition of goods, services, or information technology that has an estimated value of greater than five thousand dollars (\$5,000), but less than two hundred fifty thousand dollars (\$250,000), to a certified small business, including a microbusiness, or to a disabled veteran business enterprise, as long as the agency obtains price quotations from two or more certified small businesses, including microbusinesses, or from two or more disabled veterans business enterprises.

(b) In carrying out subdivision (a), a state agency shall consider a responsive offer timely received from a responsible certified small business, including a microbusiness, or from a disabled veteran business enterprise.

(c) If the estimated cost to the state is less than five thousand dollars (\$5,000) for the acquisition of goods, services, or information technology, or a greater amount as administratively established by the director, a state agency shall obtain at least two price quotations from responsible suppliers whenever there is reason to believe a response from a single source is not a fair and reasonable price.

(Amended by Stats. 2009, Ch. 212, Sec. 1. (AB 31) Effective January 1, 2010.)

14838.64. (a) Notwithstanding any other law, including, but not limited to, the advertising, bidding, and protest provisions of Chapter 6 (commencing with Section 14825) of this part and Chapter 2.5 (commencing with Section 10700) and Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code, the California State University may award a contract for the acquisition of goods, services, or information technology that has an estimated value of greater than five thousand dollars (\$5,000), but less than two hundred fifty thousand dollars (\$250,000), to a certified small business, including a microbusiness, or to a disabled veteran business enterprise, if the California State University obtains price quotations from two or more certified small businesses, including microbusinesses, or from two or more disabled veteran business enterprises.

(b) In carrying out subdivision (a), the California State University shall consider a responsive offer timely received from a responsible certified small business, including a microbusiness, or from a disabled veteran business enterprise.

(Added by Stats. 2013, Ch. 262, Sec. 1. (AB 173) Effective January 1, 2014.)

14838.7. (a) Notwithstanding the advertising and bidding provisions of Chapter 6 (commencing with Section 14825) of this code and Chapter 1 (commencing with Section 10100) of Part 2 of Division 2 of the Public Contract Code, a state agency may award a contract for construction, including the erection, construction, alteration, repair, or improvement of any state structure, building, road, or other state improvement of any kind that has an estimated value of greater than five thousand dollars (\$5,000) but less than the cost limit, as specified in subdivision (b) of Section 10105 of the Public Contract Code, to a certified small business, including a microbusiness, or to a disabled veteran business enterprise, as long as the agency obtains written bid submittals from two or more certified small businesses, including microbusinesses, or from two or more disabled veteran business enterprises.

(b) In implementing subdivision (a), state agencies shall consider a responsive offer timely received from a responsible certified small business, including a microbusiness, or from a disabled veteran business enterprise.

(c) If the estimated cost to the state is less than five thousand dollars (\$5,000) for the public work construction project, a state agency shall obtain at least two written bid submittals from responsible contractors whenever there is reason to believe a response from a single source is not a fair and reasonable price.

(Amended by Stats. 2003, Ch. 62, Sec. 120. Effective January 1, 2004.)

14839. (a) There is hereby established within the department the Office of Small Business and Disabled Veteran Business Enterprise Services. The duties of the office shall include:

(1) Compiling and maintaining a comprehensive bidders list of qualified small businesses and disabled veteran business enterprises, and noting which small businesses also qualify as microbusinesses.

(2) Coordinating with the federal Small Business Administration, the Minority Business Development Agency, the California Disabled Veteran Business Enterprise Program Advocate, appointed by the Secretary of the Department of Veterans Affairs pursuant to Section 999.11 of the Military and Veterans Code, and the Small Business Advocate, appointed by the Governor pursuant to Section 12098.3.

(3) Providing technical and managerial aids to small businesses, microbusinesses, and disabled veteran business enterprises by conducting workshops on matters in connection with government procurement and contracting.

(4) Assisting small businesses, microbusinesses, and disabled veteran business enterprises, in complying with the procedures for bidding on state contracts.

(5) Working with appropriate state, federal, local, and private organizations and business enterprises in disseminating information on bidding procedures and opportunities available to small businesses, microbusinesses, and disabled veteran business enterprises.

(6) Making recommendations to the department and other state agencies for simplification of specifications and terms in order to increase the opportunities for small business, microbusiness, minority-owned business, women-owned business, LGBTQ-owned business, and disabled veteran business enterprise participation.

(7) Developing, by regulation, other programs and practices that are reasonably necessary to aid and protect the interest of small businesses, microbusinesses, and disabled veteran business enterprises in contracting with the state, including, but not limited to, those specified in Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(8) Making efforts to develop, in cooperation with associations representing counties, cities, and special districts, a core statewide small business certification application that may be adopted by all participating entities, with any supplemental provisions to be added as necessary by the respective entities.

(9) Marketing the benefits and availability of state small business certification to businesses that currently hold a federal certification as a disadvantaged business enterprise.

(10) Making available the option for an applicant or certified firm to voluntarily identify that the business is at least 51 percent owned by, and whose management and daily operations are controlled by, one or more individuals who identify as any of the following:

(A) Black (a person having origins in any of the Black racial groups of Africa); Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin regardless of race); Native American (an American Indian, Inuk, Aleut, or Native Hawaiian); Pacific-Asian (a person whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, or the United States Trust Territories of the Pacific including North Marianas); Asian-Indian (a person whose origins are from India, Pakistan, or Bangladesh).

(B) A woman.

(C) LGBTQ.

(b) Notwithstanding any other law, including Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code, the department may publicly display the information specified in paragraph (10) of subdivision (a) within the certification profile of the firm using the state's certification system.

(c) The information furnished by each contractor requesting a small business or microbusiness preference shall be under penalty of perjury.

(Amended by Stats. 2024, Ch. 104, Sec. 1. (AB 2287) Effective January 1, 2025.)

14839.1. (a) The department shall have sole responsibility for certifying and determining the eligibility of small businesses and microbusinesses under this chapter.

(b) Local agencies shall have access to the department's list of certified small businesses on the department's Internet Web site, which is available to the public, for use as a reference guide to confirm a small business certification.

(Amended by Stats. 2012, Ch. 114, Sec. 1. (AB 1783) Effective January 1, 2013.)

14840. (a) (1) In the process of certifying and determining the eligibility of a disabled veteran business enterprise or a small business enterprise, including a microbusiness, the department shall require the applicant or certified firm to submit a written declaration, under penalty of perjury, that the information submitted to the department pursuant to this chapter, and in the case of a disabled veteran enterprise all information submitted to the department pursuant to Section 999.2 of the Military and Veterans Code, is true and correct.

(2) The department shall make available the option for an applicant or certified firm to voluntarily identify that the business is at least 51 percent owned by, and whose management and daily operations are controlled by, one or more individuals who identifies as any of the following:

(A) Black (a person having origins in any of the Black racial groups of Africa); Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin regardless of race); Native American (an American Indian, Inuk, Aleut, or Native Hawaiian); Pacific-Asian (a person whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, or the United States Trust Territories of the Pacific including North Marianas); Asian-Indian (a person whose origins are from India, Pakistan, or Bangladesh).

(B) A woman.

(C) LGBTQ.

(3) Notwithstanding any other law, including Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code, the department may publicly display this information within the certification profile of the firm using the state's certification system.

(b) (1) If the department determines that just cause exists, it may require the owner of the disabled veteran business enterprise, microbusiness, or small business, the applicant, or the certified firm to complete and submit to the department a federal Form 4506-T from the Internal Revenue Service, United States Department of the Treasury, requesting a transcript of a tax return.

(2) For the purposes of this subdivision, "just cause" means either of the following circumstances exist:

(A) The department receives a complaint regarding the certified firm.

(B) The department determines, based on its findings during the course of any certification eligibility review of the applicant or certified firm, that the action described in paragraph (1) is necessary.

(Amended by Stats. 2024, Ch. 104, Sec. 2. (AB 2287) Effective January 1, 2025.)

14841. Upon completion of an awarded contract for which a commitment to achieve small business or disabled veteran business enterprise participation goals was made, the contractor shall report to the awarding department the actual percentage of small business and disabled veteran business enterprise participation that was achieved. A contract that includes disabled veteran business enterprise participation shall also meet the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(Amended by Stats. 2019, Ch. 676, Sec. 3. (AB 230) Effective January 1, 2020.)

14842. (a) A business that has obtained classification as a small business or microbusiness by reason of having furnished incorrect supporting information or by reason of having withheld information, and that knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for classification, and that by reason of that classification has been awarded a contract to which it would not otherwise have been entitled, shall do all of the following:

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

(2) Pay to the awarding state agency and the department an amount that is equal to the costs incurred for investigating the small business or microbusiness certification that led to the finding that the contract had been improperly awarded. Costs incurred shall include, but are not limited to, costs and attorney's fees paid by the awarding state agency or the department related to hearings and court appearances.

(3) In addition to the amounts described in paragraphs (1) and (2), be assessed a penalty in an amount of not more than 10 percent of the amount of the contract involved.

(b) The department shall suspend any person who violates subdivision (a) from transacting any business with the state either directly as a prime contractor or indirectly as a subcontractor, for a period of not less than three years and not more than 10 years. State agencies may reject the bid of a supplier offering goods, information technology, or services manufactured or provided by a subcontractor if that subcontractor has been declared ineligible to transact any business with the state under this chapter, even though the bidder is a business in good standing.

(c) All payments to the state pursuant to paragraphs (1) and (2) of subdivision (a) shall be deposited in the fund or funds out of which payments on the contract involved were made, except payments to the department made pursuant to paragraph (2) of subdivision (a) shall be deposited in the Service Revolving Fund.

(d) All payments to the state pursuant to paragraph (3) of subdivision (a) shall be deposited in the state General Fund.

(e) The small business certification, and the disabled veteran business enterprise certification if the business has both certifications, of a business found to have violated subdivision (a) shall be revoked by the department for a period of not less than five years. For an additional or subsequent violation, the period of certification revocation or suspension shall be extended for a period of up to 10 years. The certification revocation shall apply to the principals of the business and any subsequent businesses formed by one or more of those principals.

(f) Prior to the imposition of any sanctions under this article, a business shall be entitled to a public hearing and to at least five working days' notice of the time and place thereof. The notice shall state the reasons for the hearing.

(g) Any business or person that fails to satisfy any of the amounts specified in paragraphs (1) to (3), inclusive, of subdivision (a) shall be prohibited from further contracting with the state until all amounts are satisfied.

(h) For purposes of this section, "awarding state agency" means a state agency or other state governmental entity that awarded the contract, if it was not awarded by the department.

(Amended by Stats. 2010, Ch. 342, Sec. 1. (AB 177) Effective January 1, 2011.)

14842.1. (a) The department shall provide an internet web page that includes web links to one or more online directories or databases of businesses certified by state agencies with industrial classification codes, such as the United Nations Standard Product and Service Codes, North American Industry Classification System, or Standard Industrial Classification, that include categories related to goods or commodities, services, information technology, and construction. For purposes of this subdivision, state certification shall include small businesses, disabled veteran business enterprises, minority business enterprises, woman business enterprises, LGBTQ business enterprises, and persons with disabilities business enterprises.

(b) The department shall provide a link to the web page required by subdivision (a) on the department's internet home page. This section does not limit the authority of the department to include some or all of the information required by subdivision (a) on one or more additional internet web pages.

(c) The department shall notify each state agency or department that the Department of General Services small business certification database is a resource for sourcing vendors to meet the minimum goal of 25 percent procurement for small businesses

and microbusinesses described in Section 14838.1.

(Added by Stats. 2023, Ch. 423, Sec. 4. (AB 258) Effective January 1, 2024.)

14842.5. (a) It shall be unlawful for a person to do any of the following:

(1) Knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain, certification as a small business or microbusiness enterprise for the purposes of this chapter.

(2) Willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a state official or employee for the purpose of influencing the certification or denial of certification of any entity as a small business or microbusiness enterprise.

(3) Willfully and knowingly obstruct, impede, or attempt to obstruct or impede, any state official or employee who is investigating the qualifications of a business entity that has requested certification as a small business or microbusiness enterprise.

(4) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain, public moneys, contracts, or funds expended under a contract, that are awarded by any state agency, department, officer, or other state governmental agency, to which the person is not entitled under this chapter.

(5) Knowingly and with intent to defraud, fraudulently represent certified small business or microbusiness participation in order to obtain or retain a bid preference or a state contract.

(6) Knowingly and with intent to defraud, fraudulently represent that a commercially useful function is being performed by a certified small business or microbusiness in order to obtain or retain a bid preference or a state contract.

(7) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document.

(8) Willfully and knowingly aid or assist in, or procure, counsel, or advise, the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document.

(9) Establish, or knowingly aid in the establishment of, or exercise control over, a firm found to have violated any provision of paragraphs (1) to (8), inclusive.

(b) (1) Any person who is found by the department to have violated any of the provisions of subdivision (a) is subject to a civil penalty of not less than ten thousand dollars (\$10,000) nor more than thirty thousand dollars (\$30,000) for the first violation, and a civil penalty of not less than thirty thousand dollars (\$30,000) nor more than fifty thousand dollars (\$50,000) for each additional or subsequent violation.

(2) A person who violates any of the provisions of subdivision (a) shall pay all costs incurred by the awarding department and the Department of General Services for any investigations that led to the finding of the violation. Costs incurred shall include, but are not limited to, costs and attorney's fees paid by the awarding state agency or the department related to hearings and court appearances. All payments to the state pursuant to this paragraph shall be deposited in the fund or funds out of which payments on the contract involved were made, except payments to the department shall be deposited in the Service Revolving Fund.

(c) The department shall revoke the small business or microbusiness certification, and the disabled veteran business enterprise certification if the business has both certifications, of any person that violates subdivision (a) for a period of not less than five years, and shall, in addition to the penalties provided for in subdivision (b), suspend the person from bidding on, or participating as a contractor, a subcontractor, or a supplier in, any state contract or project for a period of not less than three years nor more than 10 years. However, for an additional or subsequent violation, the period of certification revocation or suspension shall be extended for a period of up to three years. The certification revocation shall apply to the principals of the business and any subsequent businesses formed by one or more of those principals. Any business or person who fails to satisfy any of the penalties imposed pursuant to paragraphs (1) and (2) of subdivision (b) shall be prohibited from further contracting with the state until the penalties are satisfied.

(d) If a contractor, subcontractor, supplier, subsidiary, or affiliate thereof, has been found by the department to have violated subdivision (a) and that violation occurred within three years of another violation of subdivision (a) found by the department, the department shall prohibit that contractor, subcontractor, supplier, subsidiary, or affiliate thereof, from entering into a state project or

state contract and from further bidding to a state entity, and from being a subcontractor to a contractor for a state entity, and from being a supplier to a state entity.

(e) (1) In addition to the penalties imposed by this section, if a contractor is found to be in violation of paragraph (6) of subdivision (a), any existing contract between that contractor and any awarding department may be terminated at the discretion of the awarding state agency, and, where payment to the contractor is made directly by the state agency, the agency shall set off penalties and costs due to the state against any payments due to that contractor. In the event that the contracting state agency has forwarded the contract and invoices to the Controller for payment, the state agency shall reduce the amount due to the contractor as reflected in the claim schedule submitted to the Controller by the amount of the penalties and costs due the state. In addition, with regard to any penalties and costs due to the state that the state agency has not accounted for by either a set off against payments due to the contractor or a reduction reflected in the claim schedule submitted to the Controller, to the extent that the Controller is making payments to the contractor on behalf of any state agency, the Controller shall set off penalties and costs due against any invoices due to the contractor from any other contract awarded to the contractor.

(2) (A) The awarding department shall report all alleged violations of this section to the Department of General Services. After any review and investigation it deems necessary, the Department of General Services shall subsequently report all allegations that have sufficient grounds to the Attorney General who shall determine whether to bring a civil action against any person or firm for a violation of this section. However, the Department of General Services may pursue administrative action and administrative penalties irrespective of whether the Attorney General chooses to bring a civil action.

(B) (i) For alleged violations of paragraph (6) of subdivision (a), a civil action may be brought by any city attorney, county attorney or county counsel, district attorney, or the Attorney General in the name of the people of the State of California and the penalty imposed shall be enforceable as a civil judgment. A person who violates paragraph (6) of subdivision (a) shall be subject to civil penalties provided for in subdivision (b), including all costs and attorney's fees incurred by the city attorney, county attorney or county counsel, district attorney, or the Attorney General and the costs incurred by the awarding department and the Department of General Services.

(ii) A city attorney, county attorney or county counsel, or district attorney shall not bring an action for a civil penalty under this subparagraph if the Department of General Services has concluded an administrative action for the same violation. This clause does not apply to a civil action brought by the Attorney General.

(iii) In no event shall a monetary penalty be imposed through both an administrative action and a civil action for the same violation; however, the Department of General Services may impose any other penalty authorized by this section through an administrative action irrespective of the outcome of a civil action brought pursuant to this subparagraph.

(iv) A city attorney, county attorney or county counsel, district attorney, and the Attorney General shall notify the Department of General Services before commencing an action under this subparagraph.

(3) For purposes of this section:

(A) "Awarding state agency" means any state agency, department, governmental entity, or other officer or entity empowered by law to enter into contracts on behalf of the State of California.

(B) "Contractor" means any person or persons, firm, partnership, corporation, or combination thereof who submits a bid and enters into a contract with a representative of a state agency, department, governmental entity, or other officer empowered by law to enter into contracts on behalf of the State of California.

(Amended by Stats. 2021, Ch. 756, Sec. 10. (AB 1574) Effective January 1, 2022.)

14843. (a) The department may make all rules and regulations consistent with the law for the purpose of carrying into effect this chapter. Rules and regulations shall be adopted, amended, or repealed in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1.

(b) The department shall consider appropriate remedial actions to be taken in regards to mandatory reporting agencies that failed in three out of five years to meet their small business or disabled veteran business enterprise goals, including, but not limited to, the removal of the department's delegated contract authority or the placement of additional restrictions on contracting activity. The department shall set forth its actions related to this subdivision within the department's consolidated annual report.

(Amended by Stats. 2022, Ch. 730, Sec. 9. (AB 2019) Effective January 1, 2023.)

14844. (a) The department shall contract for a statewide procurement and contracting disparity study, in order to guide outreach strategies, state government program development, and improvements to contracting policies.

(b) On or before December 31, 2025, the department shall post a report to its internet website setting forth the results of the study and implementation actions taken in response to it.

