

ASSEMBLY THIRD READING

AB 915 (Chiu and Holden)

As Amended May 3, 2021

Majority vote

SUMMARY

This bill codifies a 25% small business goal for state procurement and proposes a number of actions to enhance the ability and commitment of state agencies to include small businesses, disadvantaged business enterprises (DBEs), and disabled veteran business enterprises (DVBEs) in state contracting.

Major Provisions

- 1) Requires each state agency to adopt a small business, including microbusiness, procurement participation goal of at least 25%, which may be met through subcontracting.
- 2) Expands the duties of the small business liaison, who is tasked with working with small businesses on regulatory compliance to develop an "economic equity first" action plan and policy for their respective agency, as specified.
- 3) Expands the content of the Small Business Advocate's annual report to include details regarding targeted procurement activities related to small business, microbusiness, DBE, and DVBE participation in state contracts. The report is also expanded to include compliance and implementation of the new "economic equity first" action plans and policies, as specified, by state agency liaisons and advocates.
- 4) Authorizes a state agency to bypass the competitive bid process for contracts between \$5,000 and \$250,000 and instead award a contract for public works to a DBE. In order to use this streamline option, the state agency is required to first obtain two price quotes from two certified DBEs to ensure the appropriateness of the contract price. A similar option is provided to small businesses and DVBEs.
- 5) Requires the Department of General Services (DGS) to establish a fast-track small business certification process for already certified DBEs.
- 6) Includes a crimes and infractions disclaimer.

COMMENTS

California has a 40-year history of utilizing state contracting to support business development within targeted business populations. Statute sets an annual 3% DVBE procurement participation goal, and a 2006 executive order sets a 25% small businesses and microbusinesses participation goal for state agencies, departments, boards, and commissions.

While encouraging small business participation furthers the state's interest in having a robust small business sector, the Small Business Procurement and Contract Act also establishes the policy foundation for DVBE contract participation. The DVBE procurement program is intended to both recognize the sacrifices of California's disabled military veterans, as well as address the specific needs of disabled veterans seeking rehabilitation and training through entrepreneurship.

In the state's experience, a majority of DVBEs are smaller size firms, with 86% having dual certifications, including 56.5% of all DVBE's also holding Microbusiness certificates, 25.6% having a Small Business certification, and 0.6% having a Small Business-Public Works certification. The remaining 14% of DVBEs operate with only a single DVBE certification.

Tracking Small Business and DVBE Procurement: Given the importance of small businesses to California's economy, procurement outreach activities are intended to play a key role in distributing state expenditures throughout the state and among a variety of business types. The charts below (*Charts 1 and 2*) display small business and DVBE procurement participation for the most recent four fiscal years for which data is available.

Chart 1– Small Business and Microbusiness Contracting Activity of Mandated Reporters (dollars in millions)				
Fiscal Year	Total Contract Dollars	Total Small Business and Microbusinesses Contract Dollars	Total Percent	Total Number of Contracts
2018-19	\$10,531	\$2,168	20.58%	96,345
2017-18	\$8,361	\$2,720	32.50%	110,864
2016-17	\$6,329	\$1,683	26.60%	117,624
2015-16	\$5,855	\$2,112	36.08%	116,169
2014-15	\$8,117	\$2,079	25.61%	482,707
2013-14	\$7,101	\$2,013	28.35%	90,784
2012-13	\$7,616	\$1,801	23.66%	105,617
2011-12	\$7,399	\$1,796	24.28%	165,523
Source: DGS Statewide Consolidated Annual Reports for the contracting periods				

Chart 2 – DVBE Five-Year Contracting Activity of Mandated Reporters (dollars in millions)				
Fiscal Year	Total Contract Dollars	Total DVBE Dollars	Total DVBE Percent	Total DVBE Contracts
2018-19	\$10,531	\$340	3.23%	23,782
2017-18	\$8,314	\$387	4.7%	19,174
2016-17	\$6,329	\$259	4.1%	19,823
2015-16	\$5,855	\$274	4.6%	18,638
2014-15	\$8,105	\$314	3.8%	16,192
2013-14	\$6,566	\$241	3.6%	12,777
2012-13	\$7,151	\$216	3.0%	14,907
2011-12	\$7,173	\$340	4.7%	16,246
Source: DGS Statewide Consolidated Annual Reports for the contracting periods				

Disadvantaged Business Enterprises: The DBE program is mandated for most highway, transit, and aviation projects that include funding from the United States Department of Transportation. The federal government established the DBE program to ensure federally-funded contracts include small businesses owned and controlled by socially and economically disadvantaged individuals.

Caltrans and nine other government agencies in California participate in the [DBE certification program](#), including Los Angeles County Metropolitan Transit Authority, San Diego County Regional Airport Authority, San Francisco Bay Area Rapid Transit District, San Francisco International Airport, San Francisco Municipal Transportation Agency, San Mateo County Transit District, Santa Clara Valley Transportation Authority, City of Los Angeles, and the City of Fresno.

The DBE certification criteria allows certification of businesses that are larger than those authorized under the state Small Business certification criteria, but smaller than those authorized under the state criteria for a certified Small Business-Public Works. *Chart 3* provides a comparison of the three certifications. While certified by Caltrans and local agencies, the DBE program is a national program, and includes no requirement that a certified business be headquartered in California. Further, the DBE employment standards are set through federal regulation, which can change over time and allows businesses in certain industry sectors to have an even larger number of workers than those set in state certification laws.

Chart 3 - Comparison of the State and Federal Designations				
	CA Certified	Located in California	Employee Limits	Revenue Limits
CA Microbusiness	Yes	Yes	25 or fewer	\$5 million
Small Business	Yes	Yes	100 or fewer	\$10 million
Small Manufacturers	Yes	Yes	100 or fewer	\$15 million
Small Business - Public Works	Yes	Yes	200 or fewer	\$36 million
DBE	CalTrans+	No	Industry Specific	\$26.2 million
DVBE	Yes	Yes	None	None

Caltrans provides a fairly robust set of resources, including a [searchable database](#) for vendors looking for DBE subcontractors, as well as free training. DBEs are also included in the Caltrans SB 1 Small Business Outreach Plan and Implementation Report, which is applied to the state's \$54 billion transportation infrastructure investment plan. This bill leverages this federally mandated program to identify additional eligible California businesses for Small Business certification and participation in state contracting.

According to the Author

"The state of California has enormous purchasing power, which can be used to assist small and diverse businesses that have been hit hard during COVID. This bill is an important step towards ensuring small businesses receive a fair share of state contracts

"AB 915 sets a 25 percent state procurement goal for small businesses, and takes steps to make state contracting more accessible to our entrepreneurs. Importantly, this bill also looks at small business revival through an equity lens by creating an "Economic Equity First" policy that is inclusive of small businesses and diverse businesses.

By establishing a clear process to ensure the state meets its 25% goal of small business contracting, and that minority-owned businesses are included in this contracting goal, AB 915 will facilitate economic equity in state contracting."

Arguments in Support

According to the California Business Roundtable: "Much has been said this past year about the importance of "equity" when it comes to small and minority-owned businesses. There is no greater success to a business owner, or any kind, to secure more contracts. Considering the vast purchasing power and influence of the State of California, enacting AB 915 will be a critical next step to raising the tide for all small businesses in the state."

Arguments in Opposition

There is no opposition on file.

FISCAL COMMENTS

According to the Appropriations Committee:

- 1) One-time General Fund (GF) costs to DGS of \$100,000 for the development of policies related to this bill and staffing costs of \$599,000 for the first two years of the bill. Ongoing GF costs of \$450,000 starting in year three of the bill's implementation.
- 2) Minor and absorbable GF costs to GO-Biz.
- 3) Potential increased costs for public works projects based on expansion of bid preference provided by this bill. Preference can result in agencies selecting higher bids instead of lower bids and directly increase costs of some contracts.
- 4) Ongoing GF and special fund costs, of an unknown but potentially significant amount, to state agencies to develop equity plans. Costs could be lower to the extent a state agency meets this requirement by having a current targeted procurement outreach plan for small businesses.

VOTES**ASM JOBS, ECONOMIC DEVELOPMENT, AND THE ECONOMY: 6-0-1**

YES: Cunningham, Boerner Horvath, Chau, Petrie-Norris, Ramos, Smith

ABS, ABST OR NV: Cervantes

ASM APPROPRIATIONS: 14-0-2

YES: Lorena Gonzalez, Calderon, Carrillo, Chau, Davies, Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Holden, Luz Rivas

ABS, ABST OR NV: Bigelow, Megan Dahle

UPDATED

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