

annual gross receipts of \$10 million or less over the previous three years, or is a manufacturer, as defined, and has 100 or fewer employees.

- 4) Establishes the DVBE Program, which requires state agencies and all other state entities contracting for materials, supplies, equipment, alteration, repair, or improvement to have at least three percent participation goals for DVBEs, as defined.
- 5) Defines a DVBE to mean a business certified by the administering agency that meets all of the following:
 - a) It is a sole proprietorship at least 51% owned by one or more disabled veterans, or in the case of a publicly owned business, at least 51% of its stock is owned by one or more disabled veterans; a subsidiary that is wholly owned by a parent corporation, but only if at least 51% of the voting stock of the parent corporation is unconditionally owned by one or more disabled veterans; or a joint venture in which at least 51% of the joint venture's management, control, and earnings are held by one or more disabled veterans.
 - b) The management and control of the daily business operations are by one or more disabled veterans. The disabled veterans who exercise management and control are not required to be the same disabled veterans as the owner of the business.
 - c) It is a sole proprietorship, corporation, or partnership with its home office located in the United States, which is not a branch or subsidiary of a foreign firm, or other foreign-based businesses.

This bill:

- 1) Increases the maximum estimated value of a contract for goods, services, or IT awarded pursuant to the Act, from \$250,000 to \$350,000, by which state agencies are allowed to award a contract to a SB or DVBE without complying with competitive bidding requirements, as long as the agency obtains price quotations from two or more SBs or DVBEs.
- 2) Requires the Director of DGS, commencing on January 1, 2028, and biennially thereafter, to conduct a review of the maximum estimated contract value and authorizes the Director to adjust the value to reflect changes in the CPI.

Background

Author Statement. According to the author's office, "SB 1044 increases the maximum contract value for SBs and DVBEs from \$250,000 to \$350,000. Despite significant economic changes, the \$250,000 contracts cap has remained unchanged since 2009. This means qualified SBs are being excluded from contracts they could have the capacity to complete were it not for the cap. This bill reflects an inflation accommodation of \$350,000 to give SBs and DVBEs a fighting change to thrive in such a competitive market."

Furthermore, the author's office argues that, "this bill also requires the Director of DGS to review the cap biennially, and ensure these adjustments reflect the CPI. During a time of economic uncertainty, these measures will help modernize the procurement process, creating opportunities for SBs and DVBEs while ensuring the program remains aligned with ongoing inflation and market conditions. SB 1044 reflects California's commitment to uplifting disabled veterans and SB owners by enabling them to remain competitive as vital contributors to our state."

The Small Business Procurement Act. The Act, administered by DGS, was enacted approximately 45 years ago for the purpose of promoting the participation of small businesses in state contracts. In 1989, a DVBE component was added to the Act. Certification of SBs, including microbusinesses, and DVBEs is generally undertaken by DGS. The Act establishes a 25 percent participation goal for SBs and a three-percent goal for DVBEs. The Act further requires state agencies to identify a small business liaison to oversee outreach and support efforts to engage small businesses in the procurement process.

In order for a small business to be eligible for certification, the small business must be independently owned and operated; not dominant in field of operation; and, its principal office must be located in California. In addition, the business must be either a business with 100 or fewer employees and average annual gross receipts of \$15 million or less, over the last three tax years; a manufacturer, as defined, with 100 or fewer employees; or, a microbusiness. A small business will automatically be designated as a microbusiness, if gross annual receipts are less than \$3.5 million; or the small business is a manufacturer with 25 or fewer employees.

Upon meeting eligibility requirements, certified small businesses and microbusinesses are entitled, to among other things, a five percent bid preference. The goal of the preference is to help small and micro businesses to be more competitive in the bidding process, thereby enhancing state contract awards directly or indirectly to these types of businesses. The preference is only used for

computation purposes to determine the winning bidder, the contract is awarded at the actual bid amount.

In addition, certified small businesses are eligible for the State's Business Participation Program, which sets a goal for the use of small businesses in at least 25 percent of the state's overall annual contract dollars.

Specific to this bill, the Act authorizes a state agency to award a contract for the acquisition of goods, services, and IT that has an estimated value of greater than \$5,000, but less than \$250,000, to a certified SB, including a microbusiness, or a DVBE, as long as the agency obtains price quotations from two or more small SBs or DVBEs, without complying with specified competitive bidding requirements. This bill increases the maximum estimated amount to \$350,000 and requires the Director of DGS to biennially review the maximum estimated value of the contract. Once the review is conducted, DGS is authorized but not required to adjust the value to reflect changes in the CPI.

It is unclear how many new businesses in California would be eligible from the proposed increased in this bill. While DGS does track data pertaining to awarded contracts, they do not track what contracts did not go to a small business and the reasons for why such a contract was not awarded to an SB. This is because some contracts might not be appropriate for a small business or a small business did not bid on that contract.

DVBE Program. The DVBE Program directs state governmental entities, such as state agencies and departments, to procure goods and services from DVBEs that DGS has certified as meeting the eligibility requirements of a DVBE. The legislative intent of the program is to target DVBEs and for those DVBEs to benefit financially from doing business with California.

In order for a business to be certified as a DVBE, the business must be at least 51% owned by one or more disabled veterans, have its daily operations managed by one or more disabled veterans, and have its home office located in the United States.

The DVBE Program requires state governmental entities that award contracts for goods or services, known as awarding departments, to meet or exceed the statewide participation goal of three percent. Awarding departments may meet the three percent goal either by contracting directly with a certified DVBE as a prime contractor or by requiring a prime contractor to use DVBEs as subcontractors for a portion of the work.

State departments that fail to meet the annual three percent goal can, in theory, have their delegated contracting authority removed, however DGS has never removed that authority based solely on a department's failure to meet the three percent goal.

Previous Increase. The last time the maximum estimated contract value was increased was in 2010, with the signing of AB 31 (Price, Chapter 212, Statutes of 2009), which increased the maximum estimated value from \$100,000 to \$250,000. According to the Consumer Price Index Calculator provided by the CA Department of Industrial Relations, the change in the CPI since 2010 is approximately 52%. Applying a 52% increase to the current maximum of \$250,000 would result in approximately \$380,000.

Prior/Related Legislation

SB 70 (Seyarto, 2025) would have similarly increased, from \$250,000 to \$350,000, the maximum estimated value of a contract awarded pursuant to the Act which allows state agencies to award a contract to SB or DVBE without complying with competitive bidding requirements. The bill would have also required DGS to biennially review the maximum contract value and authorized the director to adjust the value to reflect changes in the CPI. (Held in the Assembly Appropriations Suspense File)

AB 2030 (Davies, 2024) would have expanded the current authorization that allows state agencies to grant contracts valued between \$5,000 and \$250,000 for goods, services, or IT to certified SBs, Micro SBs, and DVBEs to now include women business enterprise, LGBT business enterprise and minority business enterprises. (Held in the Assembly Appropriations Suspense File)

AB 3236 (Hoover, 2024) would have doubled, from \$250,000 to \$500,000, the current authorization that allows state agencies to grant contracts for goods, services, or IT to certified SBs, Micro SBs, and DVBEs, without complying with specified competitive bidding, as specified. (Held in the Assembly Appropriations Suspense File)

SB 1478 (Archuleta, 2022) would have authorized a state agency to award a contract for services or IT that has an estimated value between \$5,000 and \$500,000 to a certified SB or to a DVBE, as long as the agency obtains price quotations from two or more certified SBs or DVBEs, without complying with specified competitive bidding, as specified. (Never Heard on the Assembly Floor)

SB 588 (Archuleta, Chapter 80, Statutes of 2020) requires an awarding department to give a prime contractor that fails to comply with specified DVBE certification requirements reasonable opportunity to comply with those requirements, and requires DGS to suspend a prime contractor that fails to comply from bidding on a state contract, as specified.

AB 1809 (Cervantes, 2019) would have authorized a state agency to award a contract for services or information technology that has an estimated value of between \$5,000 and \$500,000 to a SB or to a DVBE, as long as the agency obtains price quotations from two or more certified SBs or DVBEs. In addition, the bill would have made various changes to the DVBE Program, which were intended to address issues and findings from the 2014 and 2019 state audits of the targeted DVBE procurement participation program. (Held in the Senate Appropriations Suspense File)

AB 230 (Brough, Chapter 675, Chapter of 2019) made various changes to the statewide DVBE Program to increase monitoring and oversight of the program, as specified.

AB 1365 (Veterans Affairs, Chapter 689, Statues of 2019) requires a contract-awarding state department to maintain all records of the information provided by a prime contractor under the DVBE Program and to retain the records for a minimum of six years, as specified.

AB 31 (Price, Chapter 212, Statutes of 2009) increased, from \$100,000 to \$250,000, the maximum estimated amount of a contract awarded pursuant to the Act, which currently allows state agencies to award a contract to a SB or to a DVBE without complying with competitive bidding requirements.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT:

None received

OPPOSITION:

None received