FINAL STATEMENT OF REASONS
Small Business and Disabled Veteran Business Enterprise Regulations

I. Overview

This Final Statement of Reasons (FSOR) has been prepared by the Office of Small Business and DVBE Services (OSDS), Procurement Division, Department of General Services (DGS) as part of the rulemaking process. It follows upon the Initial Statement of Reasons (ISOR) (incorporated by reference) specific to the regulatory adoption published in the California Regulatory Notice Register on August 15, 2025 (Register 2025, No. 33-Z, pages 1017-1020). A mandatory initial 45-day public comment period commenced August 15, 2025 and closed at 11:59 p.m. on October 3, 2025. A public hearing was conducted from 9:30-11 a.m. on October 3, 2025. A subsequent 15-day public comment period commenced on July 27, 2026 and closed at 11:59 p.m. on August 11, 2026. This public comment period was required because substantial changes were made to the proposed regulations which are sufficiently related to the proposed regulations that were noticed to the public during the 45-day public comment period and public hearing.

Following publication of the Notice of Proposed Rulemaking on August 15, 2025, the Department of General Services (DGS) has made limited modifications to the proposed regulations, and it has added an Addendum to the ISOR intended to clarify the purpose and necessity of the proposed regulations stated in the Initial Statement of Reasons. The modifications to the proposed regulations are sufficiently related to the original text and are intended to improve clarity and consistency of the regulations.

II. Post-Notice Modifications and Addendum to the ISOR

In the following text of the proposed regulations, ~~strikethrough~~ indicates text deleted and <u>underline</u> indicates text added prior to the initial public comment period. ~~Double strikethrough~~ indicates text deleted and <u>double underline</u> indicates text added after the initial public comment period.

1. California Code of Regulations, Title 2, Section 1896.4(aa)

a. Modified Text

<u>(aa) Voluntary Self-Identification pursuant to Government Code Section 14840 and Public Contract Code Section 10111(f) means the option made available by the department for applicants and certified firms to voluntarily identify that the business is at least 51% owned by, and whose management and daily operations are controlled by, one or more individuals who identify as any of the following: 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,</u>

~~Eskimo~~ 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); woman; LGBTQ."

b. Purpose

Subsection 1896.4(aa) was amended to replace the word "Eskimo" with the word "Inuk" as required by Assembly Bill 2287 (2023-2024).

c. Necessity

This change was necessary in order to remain compliant with Assembly Bill 2287 (2023-2024).

2. California Code of Regulations, Title 2, Section 1896.5(b)(1)

a. Modified Text

(1) State agencies' executive directors, or their designees, when evaluating contracting needs ~~at their discretion~~, may designate specific ~~types of~~ competitive solicitations ~~above the threshold amounts specified in Government Code Sections 14838.5 and 14838.7, but not to exceed, in the amount between $250,000 and $3,500,000.01,~~ to be advertised among and awarded solely to small businesses and~~including~~ microbusinesses as defined in Section 1896.4, provided the contract value is between $250,000 and $3,500,000. The designation shall be in writing and shall document the agency's goal of ensuring participation by small businesses pursuant to Government Code section 14836(b)~~, shall be based on findings, and shall advance Government Code Section 14836(b) and shall be reviewed periodically~~. The following factors shall be met when~~considered when identifying and~~ designating competitive solicitations for small businesses and microbusinesses:

(A). Three or more small businesses and/or microbusinesses in the OSDS certification database can perform the work or provide the products and/or services being purchased by the state.

(B). For public works, three or more small businesses, microbusinesses, and/or small businesses for the purpose of public works in the OSDS certification database, at least one of which shall be a small business or microbusiness, can perform the work or provide the products and/or services being purchased by the state.

(C). The contract would not normally be fulfilled by California Prison Industry Authority pursuant to State Contracting Manual section 502 and Penal Code section 2807.

b. Purpose

The purpose of these changes is to clarify requirements on the contracting authority and responsibilities of state agencies when and if they elect to use this designation in meeting and/or exceeding their mandated participation goals. These changes do not specify the procurement processes and procedures departments must use to implement this Section. Similar to other state processes involving written justifications, the SB contract designation would be open to the public and business community to show the justification and reasonableness of the designations, much like a multitude of business or program decisions state departments make on a regular basis that are subject to the public scrutiny. The departments are not required to make any designation; this is one of the tools available to them to use to meet their mandates, and when they do elect to make designations, they will inevitably determine the contract processes and procedures needed to implement this designation, including timing, duration, cost of the contracts, etc.

c. Necessity

These changes are necessary to prevent confusion, undue hardship, and unnecessary expenses for state agencies when performing contracting activities. If the identified language is not removed, DGS will be required to overprescribe and unnecessarily make complex language to the regulations regarding contract evaluation and enforcement mechanisms that burden the state with unnecessary expenses and resource requirements.

d. Authority

DGS authority to develop new programs that are reasonable necessary to aid and protect the interest of SB/DVBE is layered based on the following statutory provisions:

- As the centralized agency for business management for the state, DGS has extensive regulatory and oversight authority over procurement of goods, information technology, and services. (Government Code, §§ 14600, 14615; PCC §§ 10290-10490, 12100-12113.)

- In addition, Government Code section 14839 subdivision (a) (7) mandates that DGS OSDS discharge its duties by “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….”

- The Legislature has declared that “it is essential that opportunity is provided for full participation in our free enterprise system by small business enterprises,” and that “the state economy is strengthened by the diversity and resiliency of its small businesses and that it is essential to ensure all small businesses are able to fully participate in the domestic and global markets….” In 2022, the Legislature increased the responsibility for state agencies to expand small business contracting opportunities by changing the requirement for DGS and the heads of other state agencies to establish goals for the participation of small businesses and microbusinesses in state contracts to requiring state agencies to establish a minimum goal of 25% procurement participation for small businesses, including microbusinesses. (Government Code, § 14838, Bill Text: CA AB2019 | 2021-2022 | Regular Session | Chaptered | LegiScan.)

To assist state departments to achieve the 25% small business and microbusiness goal, DGS OSDS proposes to amend the existing regulation to allow state agency executive directors or their designees to designate specific types of competitive solicitations above $250,000 and up to $3,500,000 to be advertised and awarded solely to small businesses and microbusinesses. The proposed regulation is to make specific the Legislation, and to provide tools for the departments to achieve the small business and microbusiness goal. The regulation is constitutional because, for general economic regulations (small business and microbusiness – not suspect or quasi-suspect classes), the state only has to demonstrate that it is rationally related to achieve a legitimate government interest. As demonstrated in the ISOR, the proposed regulation gives small business and microbusiness advantages in certain state contracting, without having to compete with big businesses, which would assist the state in achieving the 25% small business and microbusiness participation goal. It should be noted that the regulation does not mandate the use of the tool, but gives the departments discretion to use the tool when they deem appropriate to achieve the 25% goal established by the Legislature.

Designating competitive solicitations to be advertised and awarded solely to certified Small Businesses (SBs) and Small Business with Microbusiness designation (Micros) supports legislative mandates provided in AB 1574 to continuously make efforts to expand the pool of SB and Micro bidders and creates increased opportunities for more businesses to engage and compete for contracts. This can support increased small business growth, job creation, and overall economic impact in their communities. Allowing departments to advertise, solicit and award contracts within the specified range to only certified SBs, Micros, and Small Business for the purpose of Public Works (for public works contracts) better facilitates this because $250,000 to $3,500,000 is the contract range where the majority of SBs and

Micros are conducting, or have the potential to conduct, most of their business with the state.

The proposed regulation is authorized by Government Code 14843 which allows DGS to make all rules and regulations consistent with the law for the purpose of carrying into effect Chapter 6.5 Small Business Procurement and Contract Act. This authority does not override the state's general contracting principles and statutes. The process still calls for fair and competitive (not open) bidding and full competition (per PCC 100) since state agencies designate contracts for the bidding pool of small businesses. Within this bidding pool, any SB can compete and the contract is still won through standard, fair competitive bidding. The bidding follows the competition laws because it uses a fair, public, and competitive process per PCC 100 and SCM Chapter 1-100 (Purchasing Authority) and Chapter 12 - 1200 (SB and DVBE Contracting).

Designating contracts to the SB bidding pool is reasonably related to achieving the legislative goal as previously stated based on the following:

- To aid and protect the interest of small business to the maximum extent possible to ensure free competitive enterprise compliant with the state policy declaration in the Government Code 14835 (the Small Business Contracting and Procurement Act) 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."

- To support state agencies in meeting their participation goals and ensuring a fair portion of their contracting dollars go to small businesses. AB 2019 effective 2023 made the 25% SB goal a mandate for state departments in Government Code 14838 and amended Government Code 14843 to require DGS to apply remedial actions which include removing purchasing authority and imposing contracting restrictions to state departments not meeting their SB goals for there out of 5 years. Such drastic measures would require us to give departments clear, meaningful, effective, and vigorous rules such as these proposed regulations before imposing the ultimate sanction of taking their contracting authority away.

For the past three years, an average of 44 (28%) departments did not meet the SB goal annually. In the first 3-out-of-5-year cohort, there were 23 departments subject to remedial actions. The second cohort comprises another 23 new departments. Providing state departments with discretion in deciding to use this designation as a tool in meeting their mandates in the best interest of the state, ensuring SB contractors' availability and providing all qualified bidders with a fair opportunity to enter the bidding process in a manner conducive to sound fiscal practices, complies with PCC 100 regarding state competitive bidding and SCM 1-100 regarding purchasing authority delegation.

3. California Code of Regulations, Title 2, Section 1896.5(c)(2)

a. Modified Text

The agency small business advocate acting as liaison in accordance with Government Code Section 14838.1 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 or projects funded through the agency with the IIJA funding as described in subdivision (e) of the act.

b. Purpose

The purpose of adding "acting as liaison in accordance with Government Code Section 14838.1" is to clarify the role and authority of small business advocates. Government Code Section 14838.1 refers to the agency small business liaison as designated pursuant to Government Code Section 14846. Government Code Section 14846 designates the small business advocate as a liaison. State agencies use the title "small business advocate", not "small business liaison" for the responsibilities established by Government Code Sections 14838.1 and 14846.

c. Necessity

It is necessary to clarify the role and responsibilities of the small business advocate with this change since utilizing only the term "liaison" will create confusion as to the role and responsibilities of the small business advocate created by Government Code Section 14838.1.

4. California Code of Regulations, Title 2, Section 1896.12(j)

a. Modified Text

(j) ~~The department,~~ ~~p~~Pursuant to Government Code Section 14837~~,~~ ~~subdivision~~ (d)(3), the department shall conduct a biennial review~~s~~ of the GAR ~~standard~~ levels and adjust ~~it~~ them ~~accordingly to reflect changes in~~ pursuant to the average annual inflation rate in California as reflected by the California Consumer Price Index (CCPI) for all items as reported by the Department of Industrial Relations in October of the year of review. ~~The adjusted GAR shall be effective upon communication by the department.~~ In the event a CCPI for all items is not published by DIR in October in the year of biennial review, the department shall utilize the most recent prior CCPI for all items issued immediately before October of the year of biennial review. The adjusted GAR levels shall become effective on April 1 of the next year after the year of review, and the adjusted GAR levels and their date of implementation shall be emailed to certified California small businesses and posted on the OSDS website no later than that date.

b. Purpose

The purpose of these changes is to clarify the method by which GAR standards are adjusted and to remove conflict with existing Government Code that determines when changes in GAR standards become effective.

c. Necessity

These changes are necessary to better inform the public on how changes in GAR standards are determined and when changes in GAR standards become effective, and to prevent DGS from violating existing law.

5. California Code of Regulations, Title 2, Section 1896.4(aa)

a. Justification for Duplication

It is necessary to add language in California Code of Regulations, Title 2, Section 1896.4(aa) that duplicates language in Government Code Section 14840 to help small businesses, state agencies, and DGS staff better access, understand, and implement the requirements in Government Code Section 14840. This necessity is based on a long history of hearing complaints from small and disabled veteran owned businesses that information is scattered, it is difficult to navigate between regulations and law, and most business owners do not know the distinction between regulations and law. In addition, there are instances when state employees have difficulties in determining when to cite law and when to cite regulations in official and legal correspondence.

6. California Code of Regulations, Title 2, Section 1896.5(c)

a. Justification for Duplication

It is necessary to add language in California Code of Regulations, Title 2, Section 1896.5(c) that duplicates language in Government Code Section 14838.1to help small businesses, state agencies, and DGS staff better access, understand, and implement the requirements in Government Code Section 14838.1. This necessity is based on a long history of hearing complaints from small and disabled veteran owned businesses that information is scattered, it is difficult to navigate between regulations and law, and most business owners do not know the distinction between regulations and law. In addition, there are instances when state employees have difficulties in determining when to cite law and when to cite regulations in official and legal correspondence.

7. **California Code of Regulations, Title 2, Section 1896.5(a)**

   a. **Clarification**
      Stating "including microbusinesses" is necessary because this is a designation that gets counted and reported separately per PCC 10111. For clarity purposes, it needs to be mentioned, otherwise departments may eliminate them from consideration.

8. **California Code of Regulations, Title 2, Section 1896.5(b)(1)**

   a. **Clarification**
      The $250,000 to $3,500,000 proposed designation range is derived from an analysis of data for 2020, 2021, and 2022 in the State Contract & Procurement Registration System (SCPRS) that shows that $250,000 to $3,500,000 is the contract range where the majority of SBs and Micros are conducting, or have the potential to conduct, most of their business with the state.

9. **California Code of Regulations, Title 2, Section 1896.5(b)(1)(A) and (B)**

   a. **Clarification**

      Section 1896.5(b)(1)(A) and (B) are necessary to provide clarity to departments when identifying and designating competitive solicitations under this Section.

III. Local Agency/School District Mandate

DGS has determined that the proposed regulations do not impose a mandate on local agencies or school districts.

IV. Alternatives Determination

DGS finds that no reasonable alternative considered by the agency, including those posed during Government Code section 11346(b) and Government Code section 11346.45(a) opportunities, were more effective in carrying out the purpose for which the regulations were proposed, would have been as effective and less burdensome to affected private persons than the adopted regulations, or would have been more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. There are no revisions to the ISOR Alternatives Determination as originally set forth. There were no comments submitted in the course of the public comment period that would have lessened any adverse economic impact on small businesses. All other requirements of Government Code section 11346.9 have been satisfied in the content of the Notice of Proposed Action on Regulations published in the California Regulatory Notice Register on August 15, 2025, incorporated by reference.

V. 45- Day Public Comment and Public Hearing

1. Overview

Solicitation for public comment, in addition to publication in the Regulatory Notice Register, entailed a 45-day public comment period, public hearing, internet posting, direct electronic notification of more than 18,000 certified firms, broadcast subscribers and contracting agents, and Advisory Council members and DVBE Advocates, along with public counter availability. During the 45-day public comment period and public hearing, 17 individuals submitted comments to OSDS. While considered, they were not related to the proposed regulations or compelling enough to justify changing or adding to the regulatory content as originally proposed and published. One comment, however, did reveal that the use of the word “Eskimo” in the proposed regulations violated Assembly Bill 2287 (2023-2024), which required that “Eskimo” be replace with “Inuk.” Because of this, DGS changed “Eskimo” to “Inuk” as indicated above.

2. Public Comments and DGS Responses:

Carlos Costa Public Comment: Stanfield Systems, Inc. - Carlos Costa - Thank you for the opportunity to comment. My question is — what real enforcement mechanisms will DGS put in place to ensure accountability for agencies and prime contractors who fail to meet the Small Business and DVBE participation goals? Right now, the proposed updates don’t include meaningful penalties. A maximum $10,000 fine is not enough when DVBE workshares on major IT projects can total millions of dollars. We recommend that penalties be tied to the actual value of the unfulfilled SB or DVBE commitment, include an additional 20% monetary penalty, suspend violators from bidding for three years, and require DGS to publish a public database showing who violated, how, and for how much. These changes would make the program enforceable, transparent, and fair — ensuring the goals truly mean something. Thank you.

DGS Response: Thank you for the comment. This comment concerns issues outside the scope of this rulemaking effort. As a note of clarification, the penalty for contract violations is established by law (Military and Veterans Code section 999.7) and can only be changed through legislation.

Mike Spazafumo Public Comment: If the renewal (audit) is every three years, how will the program monitor changes such as a DVBE being certified in year one and then moves out of state in year two and still doing business with the state for the remaining years while not residing in California. We should go back to every year renewals (audits) to ensure fraud in the program is enforced on a regular (ever year) basis. I mean to say every year renewals.

DGS Response: Thank you for the comment. The certification renewal changes proposed in this rulemaking action were chosen because communications from businesses and analysis of compliance outcomes indicated that these changes would create more benefit to businesses than harm. Compliance actions and investigations for the Small Business and Disabled Veteran Business Enterprise (DVBE) programs are conducted by the Office of Small Business and DVBE Services on a continuous basis throughout the year, either based on complaints received, or using a randomized approach. Because they are not limited to certification application renewal, changing the certification period to every year will not significantly improve compliance outcomes.

Peter Carruth Public Comment: Pete Carruth - Strato Comms. There is one SB heavy on LPA acquisitions over 84 mill or 28 mill/year over 3 years. How is DGS handling this now and how does DGS propose to monitor these SBs over the current 18 mil threshold?

DGS Response: Thank you for the comment. This comment concerns issues outside the scope of this rulemaking effort. Currently, compliance actions and investigations for the Small Business and Disabled Veteran Business Enterprise (DVBE) programs are conducted by the Office of Small Business and DVBE Services on a continuous basis throughout every year, either based on complaints received, or using a randomized approach.

Carlos Costa Public Comment: Thank you for the opportunity to provide public comment on the proposed regulatory updates to the Small Business (SB) and Disabled Veteran Business Enterprise (DVBE) programs, as announced in the September 12, 2025, Broadcast Bulletin and reflected in the rulemaking materials implementing Assembly Bills 2019 and 2974. Stanfield Systems, Inc. fully supports the Department's efforts to modernize and expand the reach of these programs by increasing the gross annual receipt (GAR) thresholds, extending certification periods, and aligning participation goals with federal Infrastructure Investment and Jobs Act (IIJA) funding opportunities. These measures are positive and long-overdue steps toward greater inclusion and access for California's small and veteran-owned businesses. However, we respectfully submit that the proposed revisions lack specific enforcement and accountability mechanisms necessary to make these programs truly effective and equitable. The proposed language (see Express Terms, Sections 1896.62–1896.64) reiterates the 25% small business participation goal but does not outline:

1. Consequences for repeated noncompliance by state agencies or prime contractors that consistently fail to meet these participation targets.

2. Corrective actions, audits, or measurable performance indicators to ensure consistent and transparent application of these goals across departments.
3. Mechanisms for public disclosure or accountability, for example, through annual performance scorecards or compliance dashboards—that would allow the public and small business community to monitor agency progress.

Without these provisions, participation goals risk remaining aspirational rather than enforceable. This undermines both the spirit of the law and the intent of Assembly Bills 2019 and 2974, which were enacted to promote fairness, transparency, and economic opportunity for underrepresented businesses.

We also wish to highlight a real-world example that illustrates the need for enforcement. Stanfield Systems currently participates in a state contract where the prime contractor satisfied the DVBE participation requirement at the proposal stage — passing the "pass/fail" evaluation — but has not fulfilled its contractual DVBE obligations during contract execution. This situation underscores a critical gap in program oversight: while compliance is verified at the time of award, there is no follow-up to ensure commitments are honored. The absence of post-award monitoring or penalties enables this behavior to persist unchecked and directly undermines the intent of these programs.

We therefore request that DGS consider integrating an enforcement and transparency framework into the final rulemaking package—such as annual compliance reviews, public reporting of SB/DVBE goal attainment, and corrective actions for persistent shortfalls. These measures would greatly enhance accountability and public trust in the program.

Additionally, we would appreciate clarification on whether Mr. Matt Victoriano, listed as the contact in the rulemaking notice, is the appropriate point of contact for further discussion regarding compliance, oversight, and enforcement. If not, please direct us to the appropriate staff within DGS responsible for program integrity and monitoring.

We intend to provide oral comments at the October 3, 2025 virtual hearing and would like to ensure that these concerns regarding enforcement, transparency, and accountability are entered into the public record for consideration. Thank you for your attention to this important matter and for your continued efforts to strengthen California's small business and DVBE community.

DGS Response: Thank you for the comment. Remedial actions for state agency and department Small Business (SB) and Disabled Veteran

Business Enterprise (DVBE) program noncompliance are authorized under Government Code sections 14842, 14842.5, and 14843. Enforcement mechanisms for businesses that are noncompliant with the SB and DVBE programs are authorized under 2 CCR 1896.18, 1896.85, and 1896.90. The Office of Small Business and Disabled Veteran Business Enterprise Services implements policies, processes, and procedures to enforce compliance during and after certification according to these codes and regulations. In addition, public reports on SB and DVBE goal attainment are accessible by clicking this link: SB/DVBE Goals. New or revised regulations concerning program compliance and agency transparency are outside the scope of this rulemaking effort. However, OSDS will consider this comment in future rulemaking efforts.

Darrell Brantingham Public Comment: Will the SB $ limit get raised to a higher amount soon? We are bouncing off the top limit for SB cert. It is actually causing us to bid higher so we don't exceed our limit. This is not good for the state since they want the best pricing. We would like to see about moving the limit to at least 22 million average over 3 years. The SB Option limit of $249,999 is too low. Software licensing is much higher these days. Would like to see this limit increased to at least 500K while 1 million would be better.

DGS Response: Thank you for the comment. The Small Business certification Gross Annual Receipts (GAR) limits are established by Government Code 14837, which requires DGS to conduct biennial reviews of the GAR eligibility standards and adjust them to reflect changes based on the California Consumer Price Index (CCPI). The GAR limits incorporated in this rulemaking action are based on the 2023 biennial review conducted by DGS. The next biennial review is being conducted this year for implementation in 2026, and will adjust the GARs, as applicable, based on the CCPI, as required by law.

Jackson Dalton Public Comment: Black Box Safety remains federally recognized as a small business under SBA rules, yet California's revenue-only standard risks unfairly excluding us despite our small workforce and thin margins. This one-size-fits-all cap punishes growth and reduces competition. Will DGS consider adopting industry-specific or head count-based criteria that reflect different business models and prevent exclusion of businesses with high revenue but low profit?

DGS Response: Thank you for the comment. The Small Business certification Gross Annual Receipts (GAR) limits are established by Government Code section 14837, which requires DGS to conduct biennial reviews of the GAR eligibility standards and adjust them to reflect changes based on the California Consumer Price Index (CCPI). The GAR limits incorporated in this rulemaking action are based on the 2023 biennial review conducted by DGS in which DGS analyzed the California Consumer Price Index in compliance with Government Code section 14837. The next GARs biennial review will be conducted in 2025. In addition, Government Code section 14837 establishes the head count for certified small businesses at 100 employees. Changes to employee count limits will require a change in law. We understand your concern with exceeding the $18 million Small Business GAR. However, as of October 2025, 88% of certified Small Businesses are designated as Microbusinesses with GARs less than $6 million. Further increasing the small business GAR beyond the CCPI requirement would place undue competition and burden on these businesses, undermining the intent and impact of the small business program.

Timothy Devine Public Comment: Aviate Enterprises, Inc. Timothy Devine. How was the 2 million dollar increase to the threshold determined for small business? Does DGS have it within their budget, as well as a timeline, for appropriate training for their own DGS staff to understand how to interpret these rules once adopted? At the present time, your staff does not.

DGS Response: Thank you for the comment. The Small Business certification Gross Annual Receipts (GARs) limits are established by Government Code section 14837, which requires DGS to conduct biennial reviews of the GAR eligibility standards and adjust them to reflect changes based on the California Consumer Price Index (CCPI). The GARs limits incorporated in this rulemaking action are based on the 2023 biennial review conducted by DGS, in which DGS analyzed the California Consumer Price Index in compliance with Government Code section 14837. The next GAR biennial review was conducted in 2025. As of October 2025, 88% of certified Small Businesses are designated as Microbusinesses with GARs less than $6 million. Further increasing the small business GAR beyond the CCPI requirement would place undue competition and burden on these businesses, undermining the intent and impact of the small business program.

Abd Jahshan Public Comment: Thank you for sharing this with us. I'm very concerned about the proposal to raise the limit for the SB-PW. I was already surprised when the threshold was increased to over $33 million, as I don't believe a company generating more than $25–$33 million annually can reasonably be considered a small business. In the past, we've struggled to compete against firms doing over $15 million in annual revenue, and raising the cap to $43 million would make it even more difficult for truly small businesses to compete. Incremental increases every few years may seem minor, but in practice they gradually shift opportunities away from small businesses and allow larger firms to dominate—something we've unfortunately seen happen over the past five years. i will give an example:

the city of San Diego SLBE program is limited to $9 million average revenue per year and i guarantee you that there is no big contractors are part of it with that limit, it will only include small business and big a contractors won't be able to take advantage of small business portion. I'm not sure what steps are required to address this, but I feel it's important to raise these concerns before further changes are made. Any guidance or support in helping prevent this increase would be greatly appreciated.

DGS Response: Thank you for the comment. The small business certification Gross Annual Receipts (GARs) limits are established by Government Code section 14837. Specifically for SB-PW, the limits were established by law initially at $36 million in 2019. The law also requires DGS to conduct biennial reviews of the GAR eligibility standards and adjust them to reflect changes based on the California Consumer Price Index (CCPI). The GARs limits incorporated in this rulemaking action are based on the 2023 biennial review conducted by DGS in which DGS analyzed the California Consumer Price Index, in compliance with Government Code section 14837.

Jackson Dalton Public Comment: Argument: Inconsistencies Between Federal and California Small Business Size Standards
Introduction
Black Box Safety Inc. has proudly partnered with both the Federal Government and the State of California, delivering essential safety products that protect public employees and agencies. While our company is recognized as a small business under the federal government's Small Business Administration (SBA) standards, we are at risk of losing our small business certification with the State of California Department of General Services (DGS). This inconsistency creates an unfair and punitive environment for companies like ours that have successfully grown in large part because of state contracting opportunities.

Federal Standard: Head count-Based Classification
At the federal level, small business status is determined by the SBA based on industry-specific NAICS codes. For NAICS code 339112 (Surgical and Medical Instrument Manufacturing), a company remains a small business as long as it employs fewer than 500 employees. This approach recognizes that different industries have different capital structures, cost bases, and margins. It focuses on the actual scale of the business — the number of employees — rather than a blanket revenue cap. For Black Box Safety, this means that despite growth in revenue, we remain a small business federally because our head count remains below 500. This standard is fair, industry-specific, and adaptable.

California Standard: Revenue-Based Certification

By contrast, the State of California defines a small business strictly by gross receipts. Under current DGS rules, a business is considered small only if its 3-year average gross receipts are $18 million or less. This approach is problematic for several reasons:
1. Uniform Threshold Across Industries – It applies the same revenue cap to all businesses, regardless of whether they are service providers, consultants, or product distributors.
2. Ignores Business Model Realities – Companies like Black Box Safety that sell physical products operate on razor-thin profit margins. $18 million in gross sales for a product distributor does not equate to significant retained earnings or capital. By contrast, a service-based firm may achieve far higher profitability at much lower revenue.
3. Disincentivizes Growth – Businesses that succeed in scaling operations with the State of California are penalized by being excluded once they surpass the arbitrary threshold. In effect, growth with California government leads directly to disqualification.

Why the California Standard is Unfair and Punitive
The discrepancy between federal and state standards produces inequity:
- Inconsistent Definitions of 'Small' – The federal government considers Black Box Safety small; California does not. This creates confusion and an uneven playing field.
- Punishes Success – A company that has grown through serving California agencies is effectively excluded once it surpasses the revenue cap, even if its workforce and infrastructure remain modest.
- Erodes Competition – By eliminating mid-sized firms like Black Box Safety, California reduces the pool of qualified suppliers, which can increase costs and limit innovation.
- Fails to Reflect Economic Reality – $18 million in gross receipts is not equivalent across industries. For product-based businesses with thin margins, this threshold is artificially low.

A Call for Reform: Align California with Federal Standards
The State of California should modernize its size standard to better reflect economic realities and align more closely with federal policy. Possible solutions include:
1. Industry-Specific Standards – Adopt thresholds based on NAICS codes, as the SBA does, rather than a one-size-fits-all gross receipts cap.
2. Headcount-Based Measures – Include employee count as a metric, ensuring that true small businesses with limited workforce capacity remain eligible.
3. Profitability Considerations – Recognize that gross receipts are not equivalent to business size or financial strength, especially in industries with low profit margins.

Conclusion

California’s current $18 million revenue cap for small business certification is arbitrary, inconsistent with federal standards, and harmful to growing small businesses. For companies like Black Box Safety, which remain small by federal definitions and continue to operate with lean margins, the California rule is punitive and counterproductive. The state should align its certification criteria with federal practices to ensure fairness, encourage growth, and sustain a healthy competitive marketplace.

DGS Response: Thank you for the comment. The small business certification Gross Annual Receipts (GAR) limits are established by Government Code section 14837, which requires DGS to conduct biennial reviews of the GAR eligibility standards and adjust them to reflect changes based on the California Consumer Price Index (CCPI). The GARs limits incorporated in this rulemaking action are based on the 2023 biennial review conducted by DGS in which DGS analyzed the California Consumer Price Index in compliance with Government Code section 14837. The next GAR biennial review was conducted in 2025. In addition, Government Code section 14837 establishes the head count for certified small businesses at 100 employees. Changes to employee count limits will require a change in law. We understand your concern with exceeding the $18 million Small Business GAR. However, as of October 2025, 88% of certified Small Businesses are designated as Microbusinesses with GARs less than $6 million. Further increasing the Small Business GAR beyond the CCPI requirement would place undue competition and burden on these businesses, undermining the intent and impact of the Small Business program.

Griffin Forsyth Public Comment: Griffin Forsyth, Black Box Safety, Inc.- Will all currently certified Small Businesses get a 12 month additional certification due to the certification period moving from 24 months to 36 months?

DGS Response: Thank you for the comment. The Office of Small Business and Disabled Veteran Business Enterprise Services will ensure that all businesses with active certifications at the time these regulation changes are adopted will have their certifications extended to 36 months before their certification expires.

Parker Marshall Public Comment: On behalf of Black Box Safety, Inc., a California-certified SB and DVBE, I submit the following comment on the proposed revisions to the SB and DVBE Regulations.
In 2023, Black Box Safety won the State of California’s body armor contract in open competition against a large, out-of-state incumbent. This award shows the SB program working as designed: giving California firms the chance to compete, grow, and deliver value. But as a direct result of this success, our three-year GAR will exceed $18 million eventually.

The Department has acknowledged that SBs face an uphill battle when competing against large firms, which is why it is "**proposing to allow state agencies to designate competitively bid contracts…solely to SBs and Micros in order to create a level playing field**". Our success in a fully open competition proves what is possible when small businesses are empowered to compete. However, without transitional relief, the program paradoxically penalizes the very outcomes it is meant to foster. At a minimum, Small Businesses that currently hold a 24 month certification, should be granted an extension to the full 36 month certification.

The broader policy purpose of the SB program is to **stimulate growth, keep tax dollars in California, and create jobs for Californians**. In our case, the body armor contract allowed us to hire five new employees in California. Many SBs treat certification as their only market, but Black Box Safety leveraged the opportunity as a springboard. We absorbed the margin compression that comes with competing against large businesses and reinvested in our workforce and infrastructure. That is the kind of long-term competitiveness and reinvestment the program should incentivize statewide.

Proposed Amendment: We urge DGS to adopt a transitional relief provision. DGS should extend the certification period from 24 months to 36 months to all currently certified Small Businesses. Firms that exceed GAR thresholds solely due to winning open competition CA state contracts should have the revenue generated from those contracts discounted from their GAR for the ensuing recertification. This ensures the State continues to benefit from the outcomes it wants - job creation, reinvestment, and a competitive supplier base - without pushing capable California firms out of the program prematurely.

DGS Response: Thank you for the comment. The small business certification Gross Annual Receipts (GARs) limits are established by Government Code section 14837, which also requires DGS to conduct biennial reviews of the GAR eligibility standards and adjust them to reflect changes based on the California Consumer Price Index (CCPI). The GARs limits incorporated in this rulemaking action are based on the 2023 biennial review conducted by DGS in compliance with Government Code section 14837. The 2025 review will be implemented early in 2026, and it may adjust the GARs upward depending on the CCPI. The Office of Small Business and Disabled Veteran Business Enterprise Services will ensure that all businesses with active certifications at the time these regulation changes are adopted will have their certifications extended to 36 months before their certification expires.

J Cuny Public Comment: I have been involved in the acquisition of proprietary software that was later included in the State License Program.

When renewing the software it was clear to me from conversations from the software owner that the resellers involved were not necessary and only served to add to competition and SB/DVBE requirements. In other words, the vendor stated the SB/DVBE was a pass-through.

There are also concerns when dealing with a third party that it adds a layer of complication vs. going directly to the software company. There have been times when the SB/DVBE adds cost and issues arise, when licenses are assigned to the third party, third party has portal access, third party has input their own payment method. J Cuny Dept of Conservation.

DGS Response: Thank you for the comment. This comment concerns issues outside the scope of this rulemaking effort.

Robert McVicker Public Comment: Dhenali Inc. - Robert McVicker. Will there be a change to the ETC contract that allows for SB off-ramp purchases? The mandatory contract limits SB participation.

DGS Response: Thank you for the comment. This comment concerns issues outside the scope of this rulemaking effort.

Peter Carruth Public Comment: Pete Carruth - Strato Communications. Re: the ETC. At the time of rollout, some firms were not ready for the due date. Will DGS have another open ETC window in order for SB/DVBEs to participate?

DGS Response: Thank you for the comment. This comment concerns issues outside the scope of this rulemaking effort.

Ame Lazzara Public Comment: I would like to submit my public comments below.
In Article 1, Section 1896.4 (aa)
1. Black (a person having origins in any of the Black racial groups of Africa)
A person can be black and not from Africa – Barbados, Caribbean, Jamaica, and Haiti by example. Will they not count?
2. Native American (an American Indian, Eskimo, Aleut, or Native Hawaiian)
Same paragraph – This should be:
American Indian – should be changed to Indigenous American – Native American can apply to anyone born here, and American Indian is *incredibly* offensive (as someone that grew up on the rez and practices that culture).
Eskimo – also should be changed to Inuit – which means “the people” and is used in Canada, Greenland, and Alaska.
Aleut– this should be changed as well to Kodiak Archipelago and Sugpiaq (both, not or) if you are referring to the indigenous peoples from the coastal areas of Alaska – the term you use below is how the people *pronounce* the Russian-introduced name.

Alternatively – you could just say something like “Native American (referring to the indigenous peoples of North America, Alaska, and Hawaii)”
3. woman; LGBTQ Same paragraph – It should be LGBTQIA+
4. Also, why are individuals with physical and mental disabilities not counted as disadvantaged? DVBE is strictly veterans – there is nothing for a non-veteran disabled business owner?

DGS Response: Thank you for the comment. The referenced definitions are mandated by Assembly Bill 2019 (2022) and can only be changed through legislation. Per Assembly Bill 2287 (2024), the term “Eskimo” will be replaced with “Inuk” in these proposed regulations as shown previously.

Ame Lazzara Public Comment: Section 1896.12 (a)(5)(A): The language in yellow below should say “and gross annual receipts” to match the acronym of GARs (so it is g first, and not second). …and annual gross receipts (GARs)

DGS Response: Thank you for the comment. The phrase “annual gross receipts” is established in Government Code 14837(d) and cannot be changed. The acronym “GAR” is a generally accepted term and is in established use by the small business and Disabled Veteran Business Enterprise community and the program for several decades, and changing it would cause unnecessary confusion and difficulty.

Jacob Victori Public Comment: I am writing to submit my suggestions regarding SB/DVBE regulations, in particular which contracts are subject to the reporting. It is nonsensical that agencies are held accountable for using **mandatory** statewide contracts that do not have SB/DVBE participation or offramps. It is less nonsensical but still counterproductive that non-mandatory statewide contracts without participation or offramps exist, as they exist to facilitate easier acquisition of the goods/services on the contract but harm the agency’s participation numbers.
My suggestion is twofold:
1. Use of statewide contracts (or LPAs in general) should not be considered when calculating agency SB/DVBE participation.
2. Barring the above, no LPA shall be made mandatory unless it either inherently contains the SB/DVBE participation goals, OR has SB/DVBE off-ramp provisions.

DGS Response: Thank you for the comment. This comment concerns issues outside the scope of this rulemaking effort. As a note of clarification, reporting requirements are set in Public Contract Code section 10111, and DGS/OSDS has no authority to exempt any contracts from reporting.

Kiran Kareddula Public Comment: We are a Sacramento-based Microbusiness certified firm and need your valuable support with the below:

1) As a local Microbusiness certified firm, we are experiencing challenges with either providing IT Hardware / Software or IT services to CA Govt agencies hence need your support to have a minimum of 25% allocation exclusively for "Microbusinesses" in the vehicles below:
a) TDCC, formerly ITMSA
b) SLP
c) Enterprise Technology contracts
This game changing effort would ensure that "Microbusinesses", the smallest sized group thrive and bring a true meaning for leadership and this could be the only way for Microbusinesses to have a level playing field with others who already have established large contracts with the state
2) There seems to be dedicated effort to recognize and allocate a percentage to DVBE firms but not Microbusinesses. Can you please extend support with a dedicated percentage for Microbusinesses
3) With our HQs adjacent to TACPA area, can you please support with a dedicated 3 year valid certificate from DGS (similar to SB certificate) so that the forms do not need to be filled out for every bid.

DGS Response: Thank you for the comment. This comment concerns issues outside the scope of this rulemaking effort. As a note of clarification, the SB and DVBE participation goals are established by law in Government Code section 14838 and Military and Veterans Code section 999.2, respectively. Any additional participation goals require a change in law.

This Guy Public Comment: One thing I noticed is when a SB/DVBE hits the "million dollar list" the business dries up substantially. This leads to stress on the vendor side and while it allows other vendors to participate it ultimately caps us at a million dollars which doesn't provide room to grow. Lack of growth leads to frustration in the process and ultimately leads to businesses closing down. My solution would be to raise the cap to three million dollars before a SB/DVBE is on a list that blackballs us. While the DGS team may not believe it is true, we have the numbers and feedback to prove it. Please consider raising this limit so we can continue to grow uninterrupted.

DGS Response: Thank you for the comment. This comment concerns issues outside the scope of this rulemaking effort and existing code and regulations. For your information, the existing GAR limits are $6 million for Small Business with a Microbusiness designation, $18 million for Small Business, and $43 million for Small Business for the purpose of Public Works.

VI. 15-Day Public Comment and Public Hearing

1. Overview

Solicitation for public comment for the 15-day public comment consisted of direct electronic notification of 23 certified firms, contracting agents, and

DVBE Advocates. During the 15-day public comment period, one individual submitted a public comment to OSDS. While considered, it was not compelling enough to justify changing or adding to the regulatory content as originally proposed and published.

2. **Public Comments and DGS Responses:**

Peter Carruth Public Comment: Strato Communications supports the proposed authority allowing State agencies to designate competitive solicitations between $250,000 and $3.5 million for certified small businesses and microbusinesses.

For IT goods and services, confirming that three certified firms "can perform" should require more than identifying three firms in the OSDS database. The department should confirm that each firm has the required OEM certifications, an authorized route to market, and the ability to perform a commercially useful function.

Government Code section 14837(d)(4) and Military and Veterans Code section 999(b)(5)(B) require certified SB, microbusiness, and DVBE firms to perform or manage a distinct element of the contract. For products and supplies, the certified firm must be responsible for negotiating price, determining quality and quantity, ordering, and making payment. Both statutes provide that a firm does not perform a commercially useful function when its role is limited to that of an extra participant through which funds are passed to obtain the appearance of certified participation. Title 2 CCR sections 1896.15 and 1896.71 apply these requirements to SB and DVBE firms.

DGS's IT General Provisions reinforce this standard. **The applicable provisions define a reseller as a business entity authorized by the service provider or software publisher to resell the deliverables to the State**. **They also require the contractor to have the authority to grant the applicable rights and, when acting as a reseller, to warrant that it can provide the deliverables in accordance with the State contract.**

A recurring concern for years in State IT procurement arises when a certified SB or DVBE obtains a quote from a large reseller or integrator, receives the State award, and then passes the order back to that company for fulfillment. In nearly all cases, the large reseller is not authorized by the OEM or authorized distributor to resell the licenses through another reseller, and the certified firm is not recognized as the authorized reseller of record.

Under that structure, the certified firm may never acquire the contractual right to resell the licenses, place the authorized order, incur the purchase obligation, make payment through the authorized channel, or control assignment and provisioning of the licenses to the State. Instead, the large reseller controls the quote, order, and fulfillment while the certified firm primarily submits the bid and invoices the State. That arrangement does not appear consistent with the CUF requirements or the reseller authorization and authority provisions contained in the DGS IT General Provisions.

Use of an OEM-authorized distributor is a normal and necessary part of the IT supply chain. The concern is reseller-to-reseller layering in which an unauthorized non-small reseller controls the substantive transaction and the certified firm serves primarily as the contracting or payment conduit.

Strato Communications recommends that departments document the applicable OEM certification, OEM or authorized-distributor resale authorization, reseller-of-record status, authorized order path, payment responsibility, and responsibility for assigning or provisioning licenses to the State before relying on a certified firm as one of the firms capable of performing under proposed section 1896.5(b)(1).

This clarification would protect legitimate SB and DVBE participation and help prevent arrangements that create the appearance of certified-firm performance without the certified firm actually controlling and performing the resale transaction.

DGS Response: Thank you for the comment. Departments confirming that each firm has the required OEM certifications and an authorized route to market are procurement processes and procedures that fall outside the scope of this rulemaking effort. Departments confirming that each firm has the ability to perform a commercially useful function is already required by 2 CCR section 1896.15 and Military and Veterans Code section 999.10.

Darrell Brantingham Public Comment:

A. California Code of Regulations, Title 2, Section 1896.5(b)(1)

We are in favor of II. A. I. 1. which provides that the contract value being bid for certified small businesses could be $250,000.00 through $3,500,000.00. This is a noteworthy change of regulations that will help the State of California and Certified State Small Business entities. It helps the State by giving more opportunity for small business participation for products like software licensing which is very popular today. Due to the increased prices of IT products including software licensing, it makes a lot of sense to allow certified small businesses the opportunity to bid on these larger amounts. This will help State departments as they seek to meet their expectations & goals for certified small business certification too.

C. California Code of Regulations, Title 2, Section 1896.12(j)

We suggest that since the State has a three-year average for determining small business eligibility, the State should therefore have a matching three-year review instead of doing it on a biennial basis. The matching of the three years seems to be more fitting than using three years for GAR but doing a biennial review. It just seems like a bit of a mismatch.

Article 3 Heading: Small Business Eligibility, Certification Process and Responsibilities.

Section 1896.12. Eligibility for Certification as a Small Business

A. 5 states that an eligible small business must have done less than 18 million dollars as a three year average of GAR over the past three years on the businesses tax returns. This is causing us some confusion. Our confusion with this regulation is that we have both an email letter from OSDS stating that the minimum is 19 million per year and not 18 million dollars as mentioned in your Proposed Regulations plus we have a link to the OSDS website stating the same. Therefore, it seems perhaps the wrong number is in the Proposed Regulations and the three year limit average for three years is 19 million dollars, not 18 million dollars. Can you please clarify that the annual amount is 19 million and not 18 million?

Here is the link that states that the amount is now a19 million annual dollar limit: https://www.dgs.ca.gov/PD/Services/Page-Content/Procurement-Division-Services-List-Folder/Apply-for-or-Re-apply-as-Small-Business-Disabled-Veteran-Business-Enterprise?search=dvbe&utm_source=chatgpt.com

We also received an email regarding the new 19 million dollar limit:

DGS Response: Thank you for the comment. Concerning the comment: "since the State has a three-year average for determining small business eligibility, the State should therefore have a matching three-year review instead of doing it on a biennial basis." Because the biennial review timeline is determined by Government Code section 14837, only a change in law can change the biennial review timeline. Concerning the difference between the GAR requirement in the proposed regulations and the current GAR requirement: Because this update occurred during the current rulemaking process, DGS will address it in an upcoming regulation proposal process.