

NOTICE OF PROPOSED ACTION

DEPARTMENT OF GENERAL SERVICES PROCUREMENT DIVISION OFFICE OF SMALL BUSINESS & DISABLED VETERAN BUSINESS ENTERPRISE SERVICES (OSDS)

NOTICE IS HEREBY GIVEN that the director of the Department of General Services (DGS) proposes to take the rulemaking action described below after considering all comments, objections, and recommendations to the proposed action.

PUBLIC HEARING

DGS will hold an online virtual public hearing via the Zoom software application from **9:30 to 11 a.m. on October 3, 2025**. To attend the public hearing, please register and follow the ZOOM platform instructions at this link:

<https://us06web.zoom.us/j/82717892290>. At the hearing, any person attending may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest/Policy Statement Overview section below. DGS requests but does not require that persons who offer oral comments at the hearing also submit a written copy of their testimony at the hearing.

PUBLIC COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to DGS.

Comments may also be submitted by facsimile at (916) 375-4950 or by email to SBDVBERegulations@dgs.ca.gov. The written comment period is **August 18, 2025**, through **October 3, 2025**. The comment period closes at **11:59 p.m. on October 3, 2025**. DGS will only consider comments received by that time or comments received at the public hearing.

Written comments may also be submitted to the following address:

Anda Draghici, Branch Chief
Department of General Services, Procurement Division
Office of Small Business and DVBE Services
ATTN: SBDVBE Rule Changes
707 Third Street, 1st Floor, Room 400
West Sacramento, CA 95605

AUTHORITY AND REFERENCE

Rulemaking authority is granted to DGS by Government Code Sections 14600, 14615, 14837, subdivision (d), 14839, 14839.1 and 14843, in reference to the Small Business Procurement and Contract Act (Act), effecting regulations found in California Code of Regulations (CCR), Title 2, Division 2, Chapter 3, Subchapter 8, Sections 1896 – 1896.22, and 1896.60 et seq.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The revisions of the Small Business (SB) and Disabled Veteran Business Enterprise (DVBE) regulations are multipurpose, ranging from incorporating recently passed legislation, adding clarity to the certification requirements and processes, and providing departments authority to designate specific contracts to be advertised and awarded solely to SBs for certain competitive solicitations, as described below.

One of the purposes of this action is to amend the California Code of Regulations, Title 2, Division 2, Chapter 3, subchapter 8, Sections 1896.12 and 1896.13 in accordance with Government Code Section 14837, subdivision (d)(3) to adjust the size eligibility standards of Small Business (SB), including SB Microbusiness, and Small Business for the purpose of Public Works (SB-PW) as certified by the Department of General Services by raising their three-year average gross annual receipts (GARs) eligibility. Effective March 2024, the SB Microbusiness (Micro) GARs eligibility standard was increased from \$5 million to \$6 million, SB GARs eligibility standard increased from \$16 million to eighteen \$18 million dollars and the SB-PW GARs eligibility standard increased from \$38 million to \$43 million dollars, per the biennial review conducted by DGS.

Government Code section 14837, subdivision (d)(3)(B) requires DGS to conduct biennial reviews of the average annual gross receipts eligibility standards and adjust them to reflect changes based on the California Consumer Price Index (CCPI) as reported by the Department of Industrial Relations. DGS may also establish, to the extent necessary, higher or lower standards to reflect unique variations or characteristics of different industries.

California Code of Regulations, Title 2, Section 1896.5 was amended to include the SB participation goal requirements for state departments, codified through the passing of the following two assembly bills:

Assembly Bill 2019 (AB 2019), (Chapter 730, Statute of 2022) requires departments to establish an overall minimum goal of 25 percent procurement participation for SB and microbusinesses (Micro) in the provision of goods, information technology, and services to the state, and for the construction of state facilities. DGS will be required to consider remedial actions for state departments that fail three out of five years to meet SB participation goals. The bill also requires DGS to conduct a statewide procurement and contracting disparity study.

California Code of Regulations, Title 2, Section 1896.4 was amended to include the definition of Voluntary Self-Identification to mean certification applicants and certified firms 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, Eskimo, 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.

Assembly Bill 2974 (AB 2974), (Chapter 600, Statute of 2022) requires state departments to establish a 25 percent small business participation goal in each new contract over \$500,000 that is financed, in whole or in part, with federal Infrastructure Investment Jobs Act funds.

In addition, as authorized by Government Code 14839 (a)(7), DGS is proposing to allow state agencies to designate competitively bid contracts meeting specified conditions to be advertised and awarded solely to SBs and Micros in order to create a level playing field and expand state contracting opportunities for more SBs and Micros to become interested, become engaged, compete, and be awarded larger contracts that could bring a positive outcome to, and growth within, their communities.

California Code of Regulations, Title 2, Section 1896.8 was also amended to clarify that a solicitation-specific SB participation requirement set per this section does not constitute minimum requirements as used in Government Code Section 14838 for the calculation of an SB or non-SB bid preference.

Lastly, additional changes to the SB and DVBE regulations were made to define terms, clarify the SB and DVBE certification eligibility requirements, extend the certification period from 24 months to 36 months, and clarify the domicile requirements and update the list of domicile-supporting documents required in the SB and DVBE certification process.

Anticipated Benefits and Objectives of the Proposed Regulation:

The general nonmonetary benefits anticipated by the proposed adoption include:

- A certification continuity for impacted SBs and SB-PWs in the current economic climate.
- A program promotion to a slightly wider audience, in accordance with legislative intent.
- A clarification of existing regulation to reduce any ambiguity in its interpretations.
- Protecting the interest of and creating a level playing field for SBs and Micro businesses in state contracting opportunities.

These proposed amendments are necessary and essential for the continued administrative success of the SB program, as legislatively mandated. These amendments adhere to Government Code Section 14837, subdivision (d)(3)(B), which requires the DGS director to conduct a biennial review of the three-year average gross annual receipts. In addition, these amendments are necessary to clarify SB requirements and afford stakeholders and the public regulatory consistency and transparency in business and government.

Determination of Inconsistency/Incompatibility with Existing Regulations:

As these are the only regulations included in Title 2 of the California Code of Regulations governing the Small Business and Disabled Veteran Business Enterprise

programs, inconsistencies or incompatibilities with regulations adopted by other state agencies are not identified to exist. As federal rules affecting veterans and small businesses in Titles 13 and 38 of the Code of Federal Regulations (CFR) and in the Federal Acquisition Regulations (FAR) apply exclusively to the federal government and the Small Business regulations are applicable only to California-specific programs, inconsistencies or incompatibilities with federal statute and regulation are not identified to exist.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS-ASSESSMENT:

- ***The Creation or Elimination of Jobs within the State of California:*** There is no expectation of significant job creation or elimination. This measure is expected to benefit around eight SB-PWs with GARs exceeding \$35 million and 42 SBs with GARs over \$15 million, ensuring their continued eligibility and support within the SB program framework. By proposing to allow departments to designate specific contracts to be advertised and awarded solely to SBs, it may open small contract opportunities for the SBs currently certified that otherwise would compete against larger companies for state dollars.
- ***The Creation of New Businesses or the Elimination of Existing Businesses within the State of California:*** These amendments are designed to continue to provide opportunities for existing businesses and to allow for continuous certification despite highly inflationary economic conditions, with minimal impact on creation of new businesses.
- ***The Expansion of Businesses Currently Doing Business within the State of California:*** Increasing the GAR threshold is strategic in preventing the disqualification or graduation of firms from the SB program following receipt of one or two large contracts. The small businesses providing products and services under public-sector contracts stand to benefit from the continuation of this program. The increase in GARs could also provide certification eligibility to a very limited number of new businesses that were not able to qualify previously for the state's certification program.
- ***Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:*** While it may promote transparency and reduce legal interpretations to an already explicit statutory requirement, these changes will have no apparent benefit on the health and welfare of California residents, worker safety, or the state's environment.

SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS:

DGS finds that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states (Government Code Section 11346.5, subdivision (a)(8)).

EFFECT ON SMALL BUSINESS:

For the purposes of conducting the economic impact assessment during the rulemaking process, the definition of small businesses is set forth in Government Code Section 11346.3, subdivision (b)(4)(B). In general, the SB program regulations are applicable

only to California certified small businesses as defined in the Small Business Procurement and Contract Act (Government Code, Sections 14835-14837).

While changes will have statewide applicability, they are not “major regulations with significant statewide economic impact” as they do not cross the economic impact threshold of \$50 million in a single year. Overall, these changes will incorporate new legislation including the SB participation goal, allowing for businesses to self-identify as diverse-owned businesses in their certification profiles, and bringing a stability to SBs at risk of exceeding the certification eligibility thresholds because of unprecedented inflation. The amendments will also allow departments to advertise and award specific contracts solely to SBs to ensure a level playing field for SBs in state competitive procurements. As a result, in accordance with legislative intent, these regulations will help prevent small businesses from missing their chance to participate in free enterprise.

Additional proposed amendments to the SB and DVBE program regulations on domicile are necessary for added clarity and to make specific and consistent the requirements on domicile in the SB and DVBE certification process.

The revisions that result from newly passed legislation, such as making available the option for an applicant or certified firm to voluntarily identify their diversity information, do not adversely affect small businesses.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS:

The agency is not aware of any cost impacts that a representative private person or business will necessarily incur in reasonable compliance with the proposed action.

MISCELLANEOUS DISCLOSURES REGARDING THE PROPOSED ACTION:

- Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 - 17630: None.
- Nondiscretionary cost or savings imposed upon local agencies: None.
- Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: None - see analysis above.
- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost or savings in federal funding to the state: None.
- Significant effect on housing costs: None.

CONSIDERATION OF ALTERNATIVES

DGS considered alternatives identified by departments or brought to its attention, and pursuant to Government Code Section 11346.5, subdivision (a)(13), DGS determines that no reasonable alternative identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons, or would be equally effective in implementing the statutory policy or other provision of law.

CONTACT PERSONS

Inquiries concerning the subject matter of the proposed SB rulemaking revision may be directed to the following staff member with regulation adoption expertise and responsibility for coordinating this action:

Norma Curiel, SB/DVBE Regulations Adoption Coordinator
Department of General Services, Procurement Division
Office of Small Business and DVBE Services (OSDS)
707 Third Street, 1st Floor, Room 400
West Sacramento, CA 95605
Direct line: (279) 946-8248
Email: Norma.Curiel@dgs.ca.gov

The alternate contact person for inquiries is:

Matt Victoriano SB/DVBE Program Manager
Department of General Services, Procurement Division
Office of Small Business and DVBE Services
707 Third Street, 1st Floor, Room 400
West Sacramento, CA 95605
Direct line: (279) 799-4356
Email: Matt.Victoriano@dgs.ca.gov

Please direct requests for copies of the Notice of Rulemaking, the Initial Statement of Reasons, the proposed text of the SB regulations, or other information upon which the rulemaking is based to SBDVBERegulations@dgs.ca.gov.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Department of General Services has prepared an Initial Statement of Reasons (ISOR) for the proposed action, has made available all the information upon which its proposal is based, and has made available the express terms of the proposed action, with additions in underline and deletions in strikeout format (text of proposed regulations). DGS will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published, the current rulemaking initiative consists of the following and copies may be obtained by contacting the OSDS Regulations Adoption Coordinator at the address, email, or telephone number(s) listed above:

- Notice of Proposed Rulemaking
- Proposed Text of SB and DVBE Regulations
- Initial Statement of Reasons

AVAILABILITY OF THE CHANGED OR MODIFIED TEXT

After holding the public hearing and considering all timely and relevant comments received, DGS may adopt the proposed regulations substantially as described in this notice. If DGS makes modifications that are sufficiently related to the original proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before DGS takes action to adopt the regulations as revised.

Please send requests for copies of any modified regulations to the address or email indicated above (attention: RE SBDVBE Rule Changes).

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting any of the individuals identified at the above address. It shall also be posted on the internet at the below identified address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout are accessible by visiting:

<https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/Notice-of-Rulemaking-Regulations-for-SB-DVBE?search=notice%20of%20rulemaking>