

Small Business Program & Micro Business Program in California

By

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It is recommended to formally establish a Micro Business Program because the current Small Business threshold of \$ 15 million (\$ 36 million for Public Works contracts) provides a negative competition environment for “real” small firms at or below the \$ 5 million thresholds.

Background Information

Small business program was formally authorized by the State Legislators of California in 2001 as Assembly Bill 1084 (AB 1084). The bill also created a micro business category. AB 1084 was approved by the Governor on October 13, 2001.

On March 29, 2006, then Governor Arnold Schwarzenegger issued an Executive Order (Executive Order S-02-06) to implement the 25% Small Business Goal. This 25% Small Business Goal was termed as aspiration goal, not enforceable; however, it was successfully and substantially accomplished through the years by a number of state agencies, including Caltrans.

Since the passing of SB-1 and SB-103, the 25% Small Business Goal becomes a requirement. The implementation of Senate Bill 605 (SB-605), effective January 2019, calls for raising the size standard (threshold) for small businesses to a maximum of \$ 36 million annually and fewer than 200 employees, for Public Works contracts.

In late 2019, it has been reported that Caltrans Legal concluded Implementing a micro business program amounts to giving a preference to micro businesses and is not legally allowed.

Through the years, since the passage of AB-1084, there were many iterations and revisions of the government code affecting the small businesses, as indicated in the current Government Code 14835-14843. It should be noted that trending of these evolving revisions, i.e. increasing the thresholds, progressively putting the “real” small businesses in more negative competitive environment.

It is also reported that 79% of the certified small businesses in California falls into the micro businesses category, on the basis of our recent email communication with California Department of General Services.

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Cert Type	Total Cert Type Approved	Percentage
SB	3480	21%
SB(Micro)	13242	79%
Total of SB & SB(Micro)	16722	100%

Impact, Conclusion & Recommendations

With the implementation of SB-605, it makes it difficult for “real” small businesses, under \$ 5 million, to compete for Public Works contracts, in particular Caltrans contracts, if they must contend with much larger businesses that also meet the small business parameters.

The study performed by Caltrans District 4 in the fall of 2019 on Architects and Engineering (A&E) contracts for last 4 years, from FY 15/16 to FY 18/19, indicates that there are many micro businesses in California that could provide the services to Caltrans; therefore, there should be rooms for micro businesses to continue providing the services rather than being dominated by the larger small businesses, post SB-605. The micro businesses usually play the role of subconsultants in the A&E and service contracts, and subcontractors in the construction contracts, and possibly primes in the suppliers and commodities market.

In summary, it is almost impossible for micro business of firms with 50 employees or less to compete with the small business of firms up to 200 employees. It is ineffective and defeats the original purpose of outreaching and providing opportunities for “real” small businesses. The implementation of a micro business program in Caltrans contracting and procurements, targeting the “real” small business is pertinent to the need and survival of firms with 50 employees or less. These include professional services contracts, construction contracts, purchasing of supplies and commodities, to name a few. This issue carries urgency during the current COVID-19 pandemic when “real” small businesses are facing severe survival challenges. In addition to small business community benefits, volume infusion of Micro Businesses in support of Caltrans projects will propel further successes for Caltrans.

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