

AMENDED IN SENATE MAY 1, 2025

AMENDED IN SENATE MARCH 26, 2025

SENATE BILL

No. 781

Introduced by Senator Reyes

(Coauthors: Assembly Members Nguyen and Schiavo)

February 21, 2025

An act to amend Sections 12098.3 and 12100.63 of the Government Code, and to add Chapter 2.7 (commencing with Section 22060) to Part 3 of Division 2 of the Public Contract Code, relating to small business.

LEGISLATIVE COUNSEL'S DIGEST

SB 781, as amended, Reyes. Small business.

Existing law establishes the Office of Small Business Advocate within the Governor's Office of Business and Economic Development, led by the Small Business Advocate, and sets forth its powers and duties relating to advocacy on behalf of small business and providing small businesses with the information they need to survive in the marketplace. Existing law requires the advocate to, among other duties, collaborate with the Office of Small Business and Disabled Veteran Business Enterprise Services in their activities under the Small Business Procurement and Contract Act, including promoting small business certification.

This bill would require the advocate to also collaborate with local agencies on the development and implementation of local strategies to increase small business participation in local procurement opportunities, as specified. In this connection, the bill would authorize a local agency, as defined, to establish a Small Business Utilization Program (SBUP) to increase small businesses' participation in local agency procurement opportunities.

This bill would require an SBUP, to facilitate the participation of small businesses in the provision of goods, information technology, and services to the local agency, to establish a small business certification process. As part of this process, the bill would require the SBUP, to the extent feasible, to include all of specified criteria, including, among other things, a minimum goal of 25% procurement participation for small businesses certification. *The bill would authorize a local agency that establishes an SBUP to engage in specified activities to facilitate contract awards to small businesses.*

This bill would authorize a local agency to submit information on its small business procurement participation to the Office of Small Business Advocate, including progress toward meeting utilization goals. The bill would require the Office of Small Business Advocate, subject to funding being available, and upon appropriation by the Legislature for these purposes, to issue its first data call to local agencies by November 15, 2027, and every year thereafter, as specified. *The bill would require the Office of Small Business Advocate to prepare an annual report that may contain, among other things, information received from the data call and to post the report on its internet website within 6 months after each data call.* The bill would include related legislative findings.

Existing law creates the California Small Business Technical Assistance Program within the California Office of the Small Business Advocate, under the direct authority of the Small Business Advocate. Existing law requires the office to administer the program to provide grants to expand the capacity of small business development technical assistance centers in California, as specified. Existing law sets forth the criteria that an applicant must meet to be eligible to participate in the program.

This bill would, for grants made in fiscal years 2025–26 through 2027–28, inclusive, establish specified exceptions and modifications to the eligibility criteria.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12098.3 of the Government Code is
- 2 amended to read:
- 3 12098.3. (a) The Small Business Advocate shall be appointed
- 4 by, and shall serve at the pleasure of, the Governor.

1 (b) The Governor shall appoint the employees who are needed
2 to accomplish the purposes of this article.

3 (c) The duties and functions of the advocate shall include all of
4 the following:

5 (1) Serve as the principal advocate in the state on behalf of small
6 businesses, including, but not limited to, advisory participation in
7 the consideration of all legislation and administrative regulations
8 that affect small businesses, and advocacy on state policy and
9 programs related to small businesses.

10 (2) Represent the views and interests of small businesses before
11 other state agencies whose policies and activities may affect small
12 business.

13 (3) Enlist the cooperation and assistance of public and private
14 agencies, businesses, and other organizations in disseminating
15 information about the programs and services provided by state
16 government that are of benefit to small businesses, and information
17 on how small businesses can participate in, or make use of, those
18 programs and services.

19 (4) Consult with experts and authorities in the fields of small
20 business investment, venture capital investment, and commercial
21 banking and other comparable financial institutions involved in
22 the financing of business, and with individuals with regulatory,
23 legal, economic, or financial expertise, including members of the
24 academic community, and individuals who generally represent the
25 public interest.

26 (5) Seek the assistance and cooperation of all state agencies and
27 departments providing services to, or affecting, small business,
28 including the small business liaison designated pursuant to Section
29 11148.5, to ensure coordination of state efforts. The advocate shall
30 fulfill this duty by, among other activities, maintaining, publicizing,
31 and distributing an annual list of persons serving as small business
32 liaisons throughout the state.

33 (6) Receive and respond to complaints from small businesses
34 concerning the actions of state agencies and the operative effects
35 of state laws and regulations adversely affecting those businesses.

36 (7) Counsel small businesses on how to resolve questions and
37 problems concerning the relationship of small business to state
38 government.

39 (8) Collaborate with the Office of Small Business and Disabled
40 Veteran Business Enterprise Services in their activities under the

1 Small Business Procurement and Contract Act (Chapter 6.5
2 (commencing with Section 14835) of Part 5.5), including, but not
3 limited to, promoting small business certification and undertaking
4 reasonable means to assist state agencies in improving small
5 business participation. Among other activities, the advocate shall
6 maintain, publicize, and distribute an annual list of persons serving
7 as a small business advocate, designated pursuant to Section 14846,
8 throughout state government.

9 (9) Collaborate with the California Disabled Veteran Enterprise
10 Program Advocate, appointed pursuant to Section 999.11 of the
11 Military and Veterans Code, regarding the implementation of the
12 California Disabled Veteran Business Enterprise Program (Article
13 6 (commencing with Section 999) of Chapter 6 of Division 4 of
14 the Military and Veterans Code), including, but not limited to,
15 promoting disabled veteran business enterprise certification to
16 veteran entrepreneurs and veteran-owned small businesses and
17 undertaking reasonable means to assist state agencies in improving
18 small business and disabled business enterprise procurement
19 participation. The advocate shall fulfill this duty by, among other
20 activities, publicizing the annual list of persons serving as a
21 Disabled Veteran Business Enterprise Program Advocate,
22 designated pursuant to Section 999.12 of the Military and Veterans
23 Code, throughout the state.

24 (10) Collaborate with local agencies on the development and
25 implementation of local strategies to increase small business
26 participation in local procurement opportunities, including
27 facilitating discussions and sharing examples, when known and
28 available, of small business utilization strategies, technical
29 assistance and outreach models, reciprocity agreements, and
30 structures of preferences and other incentives.

31 SEC. 2. Section 12100.63 of the Government Code is amended
32 to read:

33 12100.63. (a) The California Small Business Technical
34 Assistance Program is hereby created within the California Office
35 of the Small Business Advocate.

36 (b) The program shall be under the direct authority of the Small
37 Business Advocate.

38 (c) The purpose of the program is to assist small businesses
39 through free or low-cost one-on-one consulting and low-cost

1 training by entering into grant agreements with one or more small
2 business technical assistance centers.

3 (d) In implementing the program, the office shall consult with
4 local, regional, federal, and other state public and private entities
5 that share a similar mission to support the needs of small businesses
6 in California.

7 (e) An applicant pursuant to this article shall be a small business
8 technical assistance center, including a regional or statewide
9 network, operating as a group or as an individual center.

10 (1) A small business technical assistance center operating as a
11 group consisting of centers organized under a coordinating
12 administrative or fiscal entity shall apply by submitting a single
13 consolidated application to the office.

14 (2) A small business technical assistance center operating as an
15 individual center shall apply by submitting a single application for
16 that center to the office.

17 (f) The office shall administer the program to provide grants to
18 expand the capacity of small business development technical
19 assistance centers in California, administered by and primarily
20 funded by federal agencies, but shall also include other nonprofit
21 small business technical assistance centers, that provide one-on-one
22 confidential consulting and training to small businesses and
23 entrepreneurs in this state. Except as modified by subdivision (l),
24 an applicant shall be eligible to participate in the program if the
25 office determines that the applicant meets all of the following
26 criteria:

27 (1) At the time of applying for funds, the applicant has an active
28 contract with a federal funding partner to administer a program in
29 this state, or has received a letter of intent from a federal funding
30 partner to administer a federal small business technical assistance
31 center program in this state within the next fiscal year.
32 Alternatively, if the applicant is not a federally contracted small
33 business technical assistance center, the applicant shall document
34 a private funding source with similar intent and meet the criteria
35 defined in subdivision (s) of Section 12100.62.

36 (2) (A) The applicant provided a plan of action and commitment
37 to fully draw down all of the federal funds available using local
38 cash match and state funds not described in Section 12100.65
39 during the duration of the award period. Alternatively, if the
40 applicant is not a federally contracted small business technical

1 assistance center, the applicant shall present a plan of action for
2 drawing down any match required by those private funding sources
3 using local cash match outside of state funds not described in
4 Section 12100.65 during the award period. The office may request
5 that the applicant provide details relating to the source and amount
6 of these nonstate local match funds.

7 (B) If the applicant is a new small business technical assistance
8 center, the applicant has demonstrated the ability to fully draw
9 down substantially all federal or private funds available to it.

10 (3) The requested funding amount does not exceed the total
11 federal award specified in the contract with the federal funding
12 partner contract, or the private funding sources specified, but in
13 any event is no less than ~~twenty-five~~ *twenty-five* thousand dollars
14 (\$25,000).

15 (4) The applicant seeks funding for one or more years, but no
16 more than five years in duration.

17 (5) The grant agreements authorized by this article are not
18 subject to the model contract provisions developed pursuant to
19 Chapter 14.27 (commencing with Section 67325) of Part 40 of
20 Division 5 of Title 3 of the Education Code.

21 (6) The applicant has a fiscal agent that is able to receive
22 nonfederal funds.

23 (g) The office shall issue a request for proposal for grants under
24 the program, which may contain the following information:

25 (1) The eligibility requirements described in subdivision (e).

26 (2) The available funding range.

27 (3) Funding instruments.

28 (4) The local cash match requirement described in subdivision
29 (f).

30 (5) Operational capacity.

31 (6) The duration of the program.

32 (7) The start date of the program.

33 (8) Narrative requirements.

34 (9) Reporting requirements.

35 (10) Required attachments.

36 (11) Submission requirements.

37 (12) Application evaluation criteria.

38 (13) An announcement of an awards timeline.

39 (h) (1) The office shall evaluate applications received based
40 on the following factors:

1 (A) The proposed use of the requested funding, including the
2 specificity, measurability, and ability of the applicant to document
3 and achieve the goals and objectives identified in its application.

4 (B) The proposed management strategy of the applicant to
5 achieve its goals and objectives identified in its application.

6 (C) The applicant's ability to complement and leverage the work
7 of other local, state, federal, nonprofit, or private business technical
8 assistance resource providers.

9 (D) The applicant's historical performance with federal funding
10 partner contracts or private funding sources and the strength of its
11 fiscal controls.

12 (2) The office shall prioritize funding for applications that best
13 meet the factors listed in paragraph (1) and give preference to
14 applications that propose new or enhanced services to underserved
15 business groups, including women, minority, and veteran-owned
16 businesses, and businesses in low-wealth, rural, and
17 disaster-impacted communities included in a state or federal
18 emergency declaration or proclamation.

19 (i) State funds provided pursuant to the program shall be used
20 to expand consulting and training services through existing and
21 new centers, including satellite offices. State funds provided
22 pursuant to the program shall not supplant nonstate local cash
23 match dollars included in a federal small business technical
24 assistance center's plan described in subparagraph (A) of paragraph
25 (2) of subdivision (f) or in any nonfederal small business technical
26 assistance center's plan.

27 (j) Subject to appropriation of necessary funds by the
28 Legislature, a supplemental grant program designated as the
29 California Dream Fund Program shall be established by the office
30 to provide microgrants as described in this subdivision. The
31 microgrants shall be disbursed through California Small Business
32 Technical Assistance Program grantees. California Small Business
33 Technical Assistance Program applicants, as prescribed by the
34 office, may also request state funds designated as the California
35 Dream Fund Program moneys to provide microgrants up to ten
36 thousand dollars (\$10,000) to seed entrepreneurship and small
37 business creation in underserved small business groups that are
38 facing capital and opportunity gaps. These microgrants shall be
39 made available to startup clients participating in intensive startup
40 training and consulting with the center networks.

(k) For purposes of implementing the California Dream Fund Program, a person or entity shall not seek information that is unnecessary to determine eligibility, including whether the individual is undocumented. Information that may be collected from individuals participating in the California Dream Fund Program shall not constitute a record subject to disclosure under Division 10 (commencing with Section 7920.000) of Title 1.

(l) For grants made in fiscal years 2025–26 through 2027–28, inclusive, the requirements in subdivision (f) are modified as follows:

(1) An applicant may use its 2023–24 federal fiscal year contract to meet the requirement described in paragraph (1) of subdivision (f) to have an active contract with a federal funding partner to administer a program in this state.

(2) The requirement described in paragraph (2) of subdivision (f) shall be waived for applicants who meet all of the following criteria:

(A) The applicant received an award pursuant to this chapter as a federal small business technical assistance center during the 2022–23, 2023–24, and 2024–25 funding rounds.

(B) The office determines the applicant successfully implemented their awarded contracts in 2023 and 2024.

(C) The applicant’s federal contract was canceled or otherwise rescinded in the 2024–25 fiscal year. This subparagraph shall not apply if the office determines the contract was canceled due to compliance issues.

(3) An applicant may use the total contract award amount in its 2023–24 federal fiscal year contract to meet the requirement described in paragraph (3) of subdivision (f) that the requested funding amount made in a grant pursuant to this chapter not exceed the total federal award specified in the contract with the federal funding partner contract.

SEC. 3. Chapter 2.7 (commencing with Section 22060) is added to Part 3 of Division 2 of the Public Contract Code, to read:

CHAPTER 2.7. SMALL BUSINESS UTILIZATION PROGRAM

Article 1. General

22060. This chapter shall be known, and may be cited, as the Small Business Utilization Act.

22061. The Legislature finds and declares all of the following:

(a) Small businesses play a crucial role in the state economy and contribute significantly to job creation and economic growth.

(b) Establishing a Small Business Utilization Program will promote the inclusion and participation of small businesses in government contracts, fostering economic development.

(c) It serves a public purpose and is of benefit to the state to promote and facilitate the fullest possible participation by all citizens.

(d) It serves the public interest to ensure fair and equal opportunities for small businesses to compete for and perform local contracts.

Article 2. Definitions

22062. For the purposes of this chapter, the following terms have the following meanings:

(a) “Commercially useful function” means:

(1) A contractor is deemed to perform a commercially useful function if the contractor, including a subcontractor, does all of the following:

(A) Is responsible for the execution of a distinct element of the work of the contract.

(B) Carries out its obligation by actually performing, managing, or supervising the work involved.

(C) Performs work that is normal for its business services and functions.

(D) Is responsible, with respect to products, inventories, materials, and supplies required for the contract, for negotiating price, determining quality and quantity, ordering, installing, if applicable, and making payment.

(E) Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

1 (2) A contractor or subcontractor does not perform a
2 commercially useful function if the contractor's or subcontractor's
3 sole role is that of an extra participant in a transaction, contract,
4 or project through which funds are passed in order to obtain the
5 appearance of a small business, a disabled veteran business, or a
6 social enterprise.

7 (b) "Contract" or "procurement" means the procurement of
8 goods, information technology, or delivery of services.

9 (c) "Local agency" means a city, county, or city and county,
10 including charter cities and charter counties.

11 12 Article 3. Small Business Utilization Program 13

14 22063. (a) A local agency may establish a Small Business
15 Utilization Program (SBUP) to increase small businesses'
16 participation in local agency procurement opportunities.

17 (b) In order to facilitate the participation of small businesses,
18 including microbusinesses, in the provision of goods, information
19 technology, and services to the local agency, the SBUP shall, to
20 the extent feasible, include all of the following:

21 (1) A small business certification process, including certification
22 criteria, that shall, at minimum, include each small business
23 certification identified in Section 14837 of the Government Code.
24 In developing the process and certification criteria, the local agency
25 shall consider reciprocity with the state and other local agencies.
26 Nothing in this chapter prohibits a local agency from also adopting
27 a local small business certification.

28 (2) A minimum goal of 25 percent procurement participation
29 for small businesses, including microbusinesses, in local agency
30 contracts.

31 (3) A small business preference and a nonsmall business
32 preference for bidders that provide for small business and
33 microbusiness subcontractor participation in the award of contracts
34 for goods, information technology, and services. These small
35 businesses are required to serve a commercially useful function
36 in the completion of the contract.

37 (4) Policies and strategies related to training, technical
38 assistance, and resources available to small businesses to enhance
39 their ability to compete for local agency contracts.

1 (5) Policies and strategies that provide specific considerations
2 to be taken in designing and issuing solicitations to increase small
3 business and microbusiness procurement opportunities while also
4 meeting local agency needs and available funding, including, but
5 not limited to:

6 (A) Determining when appropriate and how to unbundle larger
7 contracts to allow smaller ones.

8 (B) Reducing the minimum years of experience a business must
9 have to submit a fully compliant bid.

10 (C) Reducing the level of inventory normally required.

11 (D) Streamlining the bidding process.

12 (6) Policies and strategies to assist departments that fail to meet
13 the small business participation goal.

14 (7) Baseline data on local procurement activities and methods
15 that will be used to monitor and report on the participation of small
16 businesses in local agency contracts.

17 (8) A process for a nonsmall business prime that receives a
18 preference pursuant to this chapter to verify all of the following:

19 (A) The small business subcontractors identified in the bid
20 package have been notified that the prime has been awarded the
21 contract.

22 (B) The small business subcontractors identified in the bid
23 package have been paid in full.

24 (C) The amount paid, in the aggregate, to small business
25 subcontractors meets or exceeds the amount committed to in the
26 bid and as modified by the local agency contract.

27 (D) The small business subcontractors—~~serves~~ *serve* a
28 commercially useful function.

29 (9) A process for a nonsmall business that receives a preference
30 pursuant to the chapter to replace the small business subcontractor
31 identified in the bid for another qualified small business
32 subcontractor after the contract has been awarded. This shall
33 include a requirement for approval by the local agency and the
34 notification and payment of costs already incurred by the small
35 business subcontractors named in the bid.

36 (10) To the extent feasible and consistent with state law,
37 incentives to small businesses in the procurement process,
38 including, but not limited to, set-asides, subcontracting
39 opportunities, and mandatory small business participation in certain
40 local agency contracts for qualified small businesses.

(11) Policies and strategies that support the local agency in continuously expanding the pool of small businesses and microbusinesses participating in the local agency contracts.

(12) A requirement for the local agency to review the Small Business Utilization-~~Plan~~ *Program* and update it as needed, but not less than every four years.

(c) Notwithstanding any other provision, a local agency may engage in the activities to facilitate contract awards to small businesses described in Section 2002 if it establishes an SBUP. However, the value of any preference awarded pursuant to this chapter shall not exceed two hundred thousand dollars (\$200,000) for any single bid.

Article 4. Reporting Requirements

22065. (a) A local agency may submit information on their small business procurement participation to the Office of Small Business Advocate, including progress toward meeting utilization goals.

(b) Subject to funding being available, and upon appropriation by the Legislature for purposes of this chapter, the Office of Small Business Advocate shall issue its first data call to local agencies by November 15, ~~2027~~, *2027, and every year thereafter*. The data call shall cover contracting activities during the prior fiscal year.

(c) Information from the data call shall include the total number and dollar amount of contracting activities entered into by the local agency during the prior fiscal year in dollars and percentages compared to the baseline year identified in the ~~Small Business Utilization Plan~~ *SBUP* or set by the local agency through another means. ~~The report may also summarize any substantive changes made to the Small Business Utilization Plan, if one has been adopted, during the reporting year.~~

(d) (1) The Office of Small Business Advocate shall prepare an annual report that may include the following information:

(A) A review of the information received from the data call and an accurate display of the data in the form of a table, graph, chart, or other diagram.

(B) An outline of the best practices of local agencies for small business procurement participation.

1 (C) *A summary of any substantive changes made to each local*
2 *agency SBUP during the reporting year.*
3 (2) *The Office of Small Business Advocate shall post the annual*
4 *report on its internet website within six months after each data*
5 *call.*

6
7 Article 5. Operative Date
8

9 22067. This chapter shall become operative on January 1, 2026.

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