Small Business Regulations

The current California Code of Regulations can be found on the California Code of Regulations website.

The Small Business Regulations are under:
TITLE 2. Administration
Division 2. Financial Operations
Chapter 3. Department of General Services
Subchapter 8. Office of Small Business Procurement and Contracts

Article 1. General Provisions

Section 1896. Purpose of Subchapter
The purpose of this subchapter is to set forth the rules for applying the small business and the non-small business sub-contractor preferences; and the rules, roles, responsibilities and rights of businesses and the state as they pertain to small business certification.

Note:
Authority cited: Section 14837 and 14843, Government Code.
Reference: Section 14835, 14837, 14838 and 14839.1, Government Code.

Section 1896.2. Authority
The Department shall have the sole responsibility for determining the eligibility of and certifying small businesses pursuant to the provisions of the Small Business Procurement and Contract Act, Article 1 of Chapter 6.5, Part 5.5 of Division 3, Title 2, Government Code, commencing with Section 14835.

When authorized by the applicant, the Department may share certification data and information with other state, federal, or local agencies for purposes of enabling the applicant to become certified as a small business with these other public agencies.

Note:
Authority cited: Section 14837 and 14843, Government Code.
Reference: Section 14835, 14837 and 14839.1, Government Code.

Section 1896.4. Definitions
The terms defined in this article shall have the following meanings whenever they appear in this subchapter:

a. **Affiliate** or **affiliation** refers to a relationship of direct or indirect control or shared interests, as determined in Section 1896.12, between the applicant or a small business and another business.
b. **ALJ** means Administrative Law Judge, as defined in Government Code Section 11502, assigned by the Office of Administrative Hearings to consider and rule on appeals of certification denial, decertification, and sanctions.
c. **Applicant** means a business that has filed an application for certification as a small business with the Department on the Small Business Certification Application, STD. 813, REV. 1/2002, which is incorporated by reference.
d. **Assignment** means a transfer of rights, responsibility, or property.
e. **Awarding department** means any agency, department, office, board, commission, institution, hospital, the California State universities and colleges, and any other entity empowered by law to enter into contracts on behalf of the State of California.
f. **Bid** means an offer made in response to a solicitation.
g. **Business** means an entity organized for profit including, but not limited to, an individual, sole proprietorship, partnership, limited liability partnership, corporation, limited liability company, joint venture, association or cooperative; or solely for purposes of the Prompt Payment Act (Government Code 927 et seq.), a duly authorized nonprofit corporation.
h. **Commercially useful function** means:
    1. The contractor or subcontractor is responsible for the execution of a distinct element of the work of the contract; carrying out its obligation by actually performing, managing or supervising the work involved; and performing work that is normal for its business services and functions; and
    2. The contractor or subcontractor is not further subcontracting a greater portion of the work than would be expected by normal industry practices.
    3. The contractor or subcontractor is responsible, with respect to materials and supplies provided on the subcontract, for negotiating price, determining quality and quantity, ordering the material, installing (when applicable), and paying for the material itself.
    4. A contractor or subcontractor will not be considered as performing a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to achieve the appearance of small business participation.
i. **Department** means the Department of General Services.
j. **Disabled veteran-owned small business** means a business defined pursuant to Government Code Section 14838(f).
k. **Employee** means an individual employed by a business that is either:
    1. Reported as an employee to the State of California, Employment Development Department (EDD) on the business's Quarterly Wage and Withholding Report or other format accepted by EDD; or
    2. Reported as an employee by the business on another state's report equivalent to the EDD's Quarterly Wage and Withholding Report.

l. **Gross annual receipts** means "Total Gross Receipts or Sales", less "Returns and Allowances," as reported on the business' income tax returns, as filed with the federal Internal Revenue Service.
m. **Independently owned and operated** means a business concern that independently manages and controls the day-to-day operations of its own business through its ownership and management, without undue influence by an outside entity or person that may have an ownership and/or financial interest in the management responsibilities of the applicant business or small business.
n. **Joint Venture** means an association of businesses established by written agreement to engage in and carry out a single business venture for joint profit, for which purpose they combine their efforts, property, money, skills and/or knowledge.
o. **Local agency** means any county, city, city and county, district, public authority, public agency, school district, and any other political subdivision or public corporation in the State, but does not include the State.
p. **Manufacturer** means a business as defined in Government Code Section 14837(c), pursuant to the determination criteria set forth in Section 1896.12.
q. **Microbusiness** means a small business that, together with affiliates, has average annual gross receipts of three million, five hundred thousand dollars ($3,500,000) or less over the previous three years, as adjusted by the Department pursuant to Government Code Section 14837(d)(2), or is an manufacturer, as defined in Government Code Section 14837, with 25 or fewer employees.
r. **Net bid price** means the verified price of a bid, after all adjustments described in the solicitation have been made.
s. **Non-Profit Corporation** means, for purposes of the Prompt Payment Act, California Government Code Section 927 et. seq, a duly authorized non-profit corporation.
t. **Non-small business** means a responsible bidder that is not certified as a small business.
u. **Principal office** means where the business is headquartered and conducts the management and operations of the business.
v. **Responsive bid** means a bid that clearly substantiates compliance without material deviation with all specifications, requirements, and the terms and conditions of the solicitation.
w. **Small business** means a business that meets the eligibility requirements contained herein, that has been certified by the Department as a small business. For the purposes of these regulations, whenever the term small business is used, it means certified small business and includes microbusinesses.
x. **Solicitation** means the notification to prospective bidders that an awarding department wishes to receive bids for furnishing goods, services, information technology, or construction.

Note:
Authority cited: Section 14837 and 14843, Government Code.
Reference: Section 927, 927.2, 11370.2, 11502 and 14837, Government Code; Section 999, Military and Veterans Code.

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Article 2. Small Business Preference

Section1896.6. Application of the Small Business and Non-Small Business Subcontractor Preferences

a. Small businesses will be granted the five percent (5%) small business preference on a bid evaluation by an awarding department when a responsible non-small business has submitted the lowest-priced, responsive bid or a bid that has been ranked as the highest scored bid pursuant to a solicitation evaluation method described in Section 1896.8, and when the small business:
    1. Has included in its bid a notification to the awarding department that it is a small business or that it has submitted to the Department a complete application pursuant to Section 1896.14 no later than 5:00 p.m. on the bid due date, and is subsequently certified by the Department as a small business; and
    2. Has submitted a timely, responsive bid; and
    3. Is determined to be a responsible bidder.
b. Non-small business bidders will be granted a five percent (5%) non-small business subcontractor preference on a bid evaluation by an awarding department when a responsible non-small business has submitted the lowest-priced responsive bid or a bid that has been ranked as the highest scored bid pursuant to a solicitation evaluation method described in Section1896.8, and when the non-small business bidder:
    1. Has included in its bid a notification to the awarding department that it commits to subcontract at least twenty-five percent (25%) of its net bid price with one or more small business(es); and
    2. Has submitted a timely, responsive bid; and
    3. Is determined to be a responsible bidder; and
    4. Submits a list of the small business(es) it commits to subcontract with for a commercially useful function in the performance of the contract. The list of subcontractors shall include their name, address, phone number, a description of the work to be performed, and the dollar amount or percentage (as specified in the solicitation) per subcontractor.

Note:
Authority cited: Section 14837 and 14843, Government Code.
Reference: Section 14837 and 14838, Government Code.

Section 1896.8. Computing the Small Business and the Non-Small Business Subcontractor Preferences

a. Awards Made to the Lowest Responsive, Responsible Bidder
    1. The five percent (5%) small business or non-small business subcontractor preferences are used for bid evaluation purposes when determining a contract award in the following situations:
        A. There is at least one small business competing, and award of the contract will be made to the lowest responsive, responsible bidder. The preference shall be computed as follows:
            1. Five percent (5%) is computed from the lowest, responsive and responsible bid of a business that is not a small business. This results in the preference amount.
            2. The preference amount is subtracted from the small business' bid amount.
        B. There is at least one non-small business competing that is subcontracting at least twenty-five percent (25%) of its net price bid to one or more small businesses, and award of the contract will be made to the lowest responsive, responsible bidder. The preference shall be computed as follows:
            1. Five percent (5%) is computed from the lowest, responsive and responsible bid of a business that is not a small business, or is not subcontracting to a small business. This results in the preference amount.
            2. The preference amount is subtracted from the bid of the non-small business that is subcontracting at least twenty-five percent of its net price bid to one or more small businesses.

b. Awards Based on Highest Scored Proposal
    1. The five percent (5%) small business preference or non-small business subcontractor preferences are used for bid evaluation purposes when determining a contract award in the following situations:
        A. There is at least one small business competing, and award of the contract is to be made to the highest scored responsive bid submitted by a responsible bidder following an evaluation process that weighs factors other than price, together in a formula with price. The preference shall be computed as follows:
            1. The awarding department shall specify the minimum number of points, if any, that a bid must receive in order to be deemed responsive and of acceptable quality. If a small business does not achieve the specified minimum number of points, it shall not be entitled to the five percent (5%) preference.
            2. Five percent (5%) of the score of the highest scored responsive bid submitted by a responsible non-small business is computed as specified in the solicitation. The result of the calculation is a number that represents the preference points.
            3. The preference points are then included in the formula as specified in the solicitation to determine the highest scored bidder.
        B. There is at least one non-small business competing that is subcontracting at least twenty-five percent (25%) of its net price bid to one or more small businesses, and award of the contract is to be made to the highest scored responsive bid submitted by a responsible bidder following an evaluation process that weighs factors other than price, together in a formula with price. The preference shall be computed as follows:
            1. The awarding department shall specify the minimum number of points, if any, that a bid must receive in order to be deemed responsive and of acceptable quality. If a non-small business does not achieve the specified minimum number of points, it shall not be entitled to the five percent (5%) preference.
            2. If the non-small business achieves the specified minimum number of points, five percent (5%) of the score of the highest scored responsive bid submitted by a responsible non-small business that is not subcontracting a minimum of twenty-five percent (25%) of its net price bid to one or more small businesses is computed as specified in the solicitation. The result of the calculation is a number that represents the preference points.
            3. The preference points are then included in the formula as specified in the solicitation to determine the highest scored bidder.

c. If, after application of the small business preference to the bid of a small business, that bid is equal to the lowest priced, responsive bid from a responsible non-small business, or equal to the highest scored bid offered by a responsible non-small business, as applicable, the contract shall be awarded to the small business for the amount of its bid.

d. If, after application of the non-small business subcontractor preference, a responsible non-small business that has submitted a responsive bid is the lowest bidder, and does not displace a small business from winning the award, the contract shall be awarded to the non-small business for the amount of its bid.

e. In no event shall the amount of the small business or non-small business subcontractor preferences awarded on a single bid exceed $50,000, and in no event shall the combined cost of the small business or non-small business subcontractor preference and preferences awarded pursuant to any other provision of law exceed $100,000. In bids that the state has reserved the right to award by line item, or make multiple awards, the small business preference shall be applied to maximize the participation of small businesses.

f. In the event of a precise tie between the bid of a small business and the bid of a disabled veteran business enterprise that is also a small business, the award shall go to the disabled veteran business enterprise that is also a small business.

Note:
Authority cited: Section 14837 and 14843, Government Code.
Reference: Section 4535.2, 7084, 7118 and 14838, Government Code; Section 12102 and 12162, Public Contract Code.

Section 1896.10. Substitution of a Small Business Subcontractor

a. After award of a contract based in part on the application of the Non-Small Business Subcontractor preference, the contractor must use the small business subcontractor(s) and/or supplier(s) proposed in the bid to the state unless a substitution is requested in writing to the awarding department and the awarding department approves the substitution in writing prior to the commencement of any work. The substitution request must include at least the following:
    1. An explanation of the reason for the substitution.
    2. The contractor must substitute a small business with another small business. However, if the small business substitution cannot occur, the contractor must include a written justification and the steps that were taken to try to acquire a new small business subcontractor and how that portion of the contract will be fulfilled.
    3. A description of the work to be performed, identified both as a task(s) and as a dollar amount or percentage of the overall contract that the substituted business will perform. The substituted business(es), if approved, shall be required to perform a commercially useful function in the contract pursuant to Section 1896.6.
b. The request for substitution of a small business and the awarding department's approval or disapproval cannot be used as an excuse for noncompliance with any other provision of law, including but not limited to, the Subletting and Subcontracting Fair Practices Act (Section 4100 et seq., Public Contract Code) or any other contract requirements relating to substitution of subcontractors.
c. If a contractor requests substitution of its subcontractor(s)/supplier(s) by providing a written request to the awarding department in accordance with Section 1896.10, the awarding department may consent to the substitution in any of the situations set forth in Public Contract Code Section 4107 of the Subletting and Subcontracting Fair Practices Act.
d. Prior to approval of the prime contractor's request for the substitution, the awarding department, or its duly authorized officer, shall give notice in writing to the listed subcontractor of the prime contractor's request to substitute and the reasons for the request to substitute. The notice shall be served by certified or registered mail to the last known address of the subcontractor. The listed subcontractor that has been so notified shall have five (5) working days after the receipt of the notice to submit written objections to the substitution to the awarding department. Failure to file these written objections shall constitute the listed subcontractor's consent to the substitution. If written objections are filed, the awarding department shall give notice in writing of at least five (5) working days to the listed subcontractor of a hearing by the awarding department on the prime contractor's request for substitution.
e. Failure of the contractor to subcontract with the small businesses listed on its bid to the state, or follow these substitution rules may be grounds for the Department to impose sanctions pursuant to Government Code Section 14842.5 and Section 1896.16. In the event such sanctions are to be imposed, the contractor shall be notified in writing and entitled to a hearing pursuant to Section 1896.18 and 1896.20.

Note:
Authority cited: Section 14837 and 14843, Government Code.
Reference: Section 14837 and 14842.5 Government Code; Section 4107, Public Contract Code.

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Article 3. Certification

Section 1896.12. Eligibility for Certification as a Small Business

a. To be eligible for certification as a small business, a business must meet all of the following qualifying criteria:
    1. It is independently owned and operated; and
    2. The principal office is located in California; and
    3. The officers of the business in the case of a corporation; officers and/or managers, or in the absence of officers and/or managers, all members in the case of a limited liability company; or the owner(s) in all other cases, are domiciled in California; and
    4. It is not dominant in its field of operation(s), and
    5. It is either:
        A. A business that, together with all affiliates, has 100 or fewer employees, and annual gross receipts of fourteen million dollars ($14,000,000) or less as averaged for the previous three tax years, as adjusted by the Department pursuant to Government Code Section 14837(d)(3); or
        B. A manufacturer as defined herein that, together with all affiliates, has 100 or fewer employees.
b. To be eligible for designation as a microbusiness, a business must meet all the qualifying criteria in subparagraph (a), and in addition, must be either:
    1. A business that, together with all affiliates, has annual gross receipts of three million five hundred thousand dollars ($3,500,000) or less as averaged for the previous three tax years, as adjusted by the Department pursuant to Government Code Section14837(d)(3); or
    2. A manufacturer as defined herein that, together with all affiliates, has 25 or fewer employees.
c. Joint ventures must be certified on a bid-by-bid basis. The joint venture shall not be subject to the average annual gross receipts and employee limits imposed by this subchapter. However, each individual business participating in the joint venture must be certified as a small business.
d. Certification Determination
    1. In determining if a business is eligible for certification, the Department may consider the applicant's or small business' organizational structure, operations and business relationships during the previous three tax years (or years the business has been in existence if fewer than three tax years), and may request the applicant provide copies of income tax returns as filed with the California Franchise Tax Board in addition to the required federal income tax returns and schedules, as filed with the federal Internal Revenue Service, or other documentation deemed necessary for the Department to make a final certification determination.
    2. In determining if a business is eligible for small business certification, the applicant business, together with all affiliates, has been in existence less than three years shall have 100 or fewer employees, and an average

annual gross receipts of $14 million or less as averaged by the number of years in existence, as adjusted by the Department pursuant to Government Code, Section 14837(d)(3).

3. In determining if a business is eligible for microbusiness certification, the applicant business, together with all affiliates, has been in existence less than three years shall have an average annual gross receipts of $3.5 million or less as averaged by the number of years in existence, as adjusted by the Department pursuant to Government Code, Section 14837(d)(3).
4. The Department's determination of whether a business is a manufacturer may be based on, but not limited to:
    A. Whether the business, with its own facilities, performs the primary activities in transforming inorganic or organic substances into the end item being acquired, and is not a packager or, in the case of kits, a final assembler. The end item must possess characteristics that, as a result of mechanical, chemical, or human action, it did not possess before the original substances, parts, or components were assembled or transformed. The end item may be finished and ready for utilization or consumption, or it may be semi-finished as a raw material to be used in further manufacturing.
    B. The factors considered by the federal Small Business Administration pursuant to Title 13, Code of Federal Regulations (CFR), Chapter I, Part 121, Section 121.406(b)(2).
    C. Whether more than fifty percent (50%) of annual gross receipts, as determined by the Department, result from the manufacture and sale of products manufactured by the business.
5. The Department's determination of whether the officers, owners or members of a business, as applicable, are domiciled in California may be based on, but not be limited to, a review of:
    A. Voter registration records;
    B. Homeowner's property tax exemption filings;
    C. Driver's licenses;
    D. Utility billings; and
    E. Other documents, acts, occurrences, or events that indicate presence in California is more than temporary or transient.
6. The Department's determination of whether the Principal Office of a business is located in California shall be based on:
    A. In the case of a corporation, the location where the corporate officers manage, direct and control the operations must be located within California;
    B. In the case of Limited Liability Companies, the location where the Manager(s) and/or Officer(s) or Members manage, direct and control the operations must be located within California;
    C. In all other cases, the location where the owner(s) manage, direct and control the operations must be located within California.
7. The Department's determination of whether a business is affiliated with another business may be based on, but not limited to, historical and current factors including ownership, management, financial and/or business relationships or ties with another business, familial relationships, contractual relationships, assignments, passage of title to goods or merchandise, and other related matters.
    A. The Department may additionally consider the following in determining affiliation:
        1. The applicant business assigns a contract, in whole or in part, to another business.
        2. There exists common management with the applicant business and another business.
        3. The applicant business and another business share facilities, equipment, systems, or employees.
        4. There is a familial relationship with the applicant business and another business and both businesses are in the same industry.
        5. A person or business has assisted the applicant business with activity to meet bond/security requirements.
    B. The following types of business relationships shall not be considered affiliations:
        1. A franchise and/or license agreement provided that the franchisee or licensee has the right to profit from its efforts and bears the risk of loss commensurate with ownership.
        2. A manufacturer's or service provider's representative provided that a written agreement exists between the manufacturer(s) or service provider(s) and the representative that substantiates the independent nature of the individual businesses.
8. The Department shall presume an applicant business not to be independently owned and operated if any of the following exists:
    A. An outside person or business concern owns or controls, or has the power to control, fifty percent (50%) or more of the voting stock of the applicant business, or
    B. One or more business owners, general partners, directors, officers or members of an outside business concern controls or has the power to control or influence the day-to-day operations of the applicant business, board of directors and/or owner(s) of the applicant business.
9. An applicant business concern that exercises or has the ability to exercise a controlling or major influence, on a statewide basis, in a kind of business activity or field of operation in which a number of business concerns are primarily engaged, shall be determined to be dominant in its field of operation. The following criteria, among others, may be considered by the Department in determining if the applicant business is dominant in its field of operation:
    A. Volume of business;
    B. Financial resources;
    C. Competitive status or position;
    D. Ownership or control of materials, processes, licenses agreements and facilities;
    E. Sales territory and nature of business activity.

e. In order to determine the eligibility of a business for certification as a small business, the Department may consider whatever information is provided to it from records gathered or held by any California state or local agency, any governmental agency of another state, or the federal government.

f. Businesses that have been certified by or on behalf of other governmental organizations may be eligible for certification as a small business if the organization uses substantially the same or more stringent definitions as those set forth in Government Code Section 14837, and substantially the same or more stringent certification analysis process than used by the Department

Note:
Authority cited: Section 14837 and 14843, Government Code.
Reference: Section 14837, Government Code.

Section 1896.14. Responsibilities of the Small Business

a. In order to be considered by the Department for certification as a small business, a business must:
    1. Submit a completed application to the Department, including all required substantiating documentation and information needed by the Department to determine the business' eligibility for small business certification; and
    2. Respond to any deficiency notice from the Department, by the date and time specified by the Department, with all additional information requested, or provide reasons acceptable to the Department regarding why the deficiency request cannot be fulfilled; and
    3. Meet all eligibility requirements as set forth in this subchapter.
b. A small business must provide written notification to the Department of any changes in its operation or ownership during its certification period that may affect its continuing eligibility as a small business pursuant to Section 1896.12. Should a small business be sold during its certification period, the certification is not transferable to the new owners. Should the new business owners choose to do so, they may submit a new application for certification.
c. Small business contractors and subcontractors shall perform commercially useful functions in each contract they are awarded by state agencies.
d. Every business certified as a small business shall be subject to reverification of status at any time. Failure by a small business to provide requested information that supports its continued eligibility as a small business, by the date and time specified by the Department, shall be grounds for decertification.

Note:
Authority cited: Section 14837 and 14843, Government Code.
Reference: Section 14837, 14842 and 14842.5, Government Code.

Section 1896.16. Certification by the Department

a. A business meeting the eligibility and certification requirements set forth herein shall be certified as a small business, and shall be accorded all rights and privileges due pursuant to that certification.
b. A small business meeting the microbusiness eligibility requirements shall also be designated a microbusiness. If the business exceeds the eligibility requirements for microbusiness designation at any time during the certification period, the microbusiness designation shall be removed. However, as long as the business still meets the eligibility requirements for a small business, the small business certification shall not be affected for the remainder of the certification period.
c. The Department may certify businesses that have been certified by or on behalf of another governmental organization that uses substantially the same or more stringent definitions as those set forth in Government Code Section 14837, and substantially the same or more stringent certification analysis process than used by the Department.
d. Certification will be valid for up to thirty-six (36) months. Prior to the end of a certification period, in its sole discretion, the Department may extend the certification period up to an additional twenty-four (24) months after certification eligibility reverification or confirmation pursuant to Section 1896.12. The total period of certification, including extensions, shall not exceed sixty (60) months. At the end of a 60-month certification period, businesses may re-apply for certification. If eligible, a new certification period of up to 36 months, with extensions up to an additional 24 months, will begin.
e. The application of a business that does not meet the eligibility requirements for certification as a small business, or does not respond to requests from the Department for additional information, will be denied certification.
f. If a small business is determined by the Department to no longer meet the eligibility requirements for small business certification, the certification shall be revoked.
g. If it is determined by the Department that a small business is not performing a commercially useful function on a contract it has been awarded by a state agency, or on a state contract that it is performing as a subcontractor, the certification may be revoked.
h. Pursuant to Government Code Section 14842, the Department may impose the following sanctions on a business that obtains or retains certification as a small business on the basis of having furnished incorrect, incomplete or fraudulent information to the Department, and that has been awarded one or more contracts as a result of the certification:
    1. The business shall pay to the state any difference between the contract amount awarded to the business and the contract amount had it been properly awarded; and
    2. The business shall be assessed a penalty in an amount not more than ten percent (10%) of the amount of the contract involved; and
    3. The business shall be ineligible to transact any business with the state for a period of not less than three months and not more than 24 months.

4. The small business certification of the business shall be revoked for a period of not less than one year. For additional or subsequent violations, the suspension shall be extended for a period of up to three years.

i. Pursuant to Government Code Section 14842, the Department may impose sanctions on a business that has obtained classification as a small business or microbusiness by reason of having furnished incorrect supporting information or by reason of having withheld information, and that knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for classification, and that by reason of that classification has been awarded a contract to which it would not otherwise have been entitled; under conditions set forth in Government Code Section 14842, the business may be prohibited from:
    1. Entering into a state project or state contract,
    2. Bidding to an awarding department,
    3. Being a subcontractor to a contractor for an awarding department,
    4. Being a supplier to an awarding department.

j. Pursuant to Government Code SectionSection 14842 and 14842.5, the Department may impose sanctions on a person or business for knowing, willful and intentional violations of a penalty of not more than $5,000.

k. When denying an application for certification, decertifying a small business, or imposing any sanctions, the Department will notify the business in writing. The notice shall include the reasons for the denial, decertification, or imposition of sanctions, as applicable, and provide information regarding the process for appealing the decision(s).

l. Any decertification issued pursuant to Government Code Section 14842 or 14842.5 shall apply to the principals of the business, and neither the business nor the principals may re-apply for certification, either as the same business or a new business, for a period of not less than one year, nor more than two years, from the date of certification revocation.

m. State agencies may reject the bid of a business offering goods, information technology, or services manufactured or provided by a subcontractor if that subcontractor has been declared ineligible to transact any business with the state pursuant to Government Code Section 14842.

Notes:
Authority cited: Section 14837 and 14843, Government Code.
Reference: Section 14837, 14842 and 14842.5, Government Code.

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Article 4. Appeals

Section 1896.18. Appeal of Certification Denial, Decertification, or the Imposition of Sanctions

a. A business, having been denied certification as a small business, or having been provided written notice by the Department of its intention to decertify the business as a small business, or of its intention to impose sanctions, may appeal the Department's determination.

b. An appeal shall be filed with the Department by the date and time specified by the Department in its notice. The appeal shall be in writing and include a detailed written statement of the facts supporting the appeal.

c. Grounds for appeal shall be:
    1. The applicant should have been certified as a small business based on the information contained in the application including, if applicable, supplemental material submitted to the Department upon its request, as of the date of the Department's notice of certification denial.
    2. The business should remain certified as a small business based on the information contained in the application, including, if applicable, supplemental material submitted to the Department upon its request, as of the date of the Department's notice of decertification determination.
    3. Sanctions should not be imposed, because one or more of the conditions set forth in Government Code Section 14842 or 14842.5, as applicable, did not exist.

Note:
Authority cited: Section 14837 and 14843, Government Code.
Reference: Section 14842 and 14842.5, Government Code.

Section 1896.20. Appeal Hearings.

Appeal hearings shall be conducted in accordance with the Administrative Procedure Act, Chapter 5, Part 1 of Division 3, Title 2, Government Code, commencing with Section 11500, except as provided in this subchapter. It shall be the ALJ's sole discretion as to whether to conduct a hearing, or proceed with a decision based solely on the written material. If a hearing is held, the ALJ shall have discretion to limit the number of witnesses and the time allocated to each, authority to permit or limit cross-examination, and exclusive discretion to issue subpoenas and/or subpoena duces tecum. There shall be no right to take depositions, issue interrogatories, or subpoena persons or documents.

Note:
Authority cited: Section 14837 and 14843, Government Code.
Reference: Section 11500, 11501, 11502, 11503, 11504, 11504.5, 11505, 11506, 11507, 11507.3, 11507.5, 11507.6, 11507.7, 11508, 11509, 11511.5, 11511.7, 11512, 11513, 11514, 11515, 11516, 11517, 11518, 11518.5, 11519, 11520, 11521, 11523, 11524, 11526, 11527 and 11528, Government Code.

Section 1896.22. Appeal Decisions.
The decision of the ALJ shall be an order to uphold or deny the appeal, and shall include the imposition of sanctions pursuant to Government Code Section 14842 and 14842.5, as appropriate. If the ALJ upholds the appeal of a certification denial or decertification, the Department shall certify the business as a small business pursuant to Section 1896.16.

Note:
Authority cited: Section 14837 and 14843, Government Code.
Reference: Section 11517, 14842 and 14842.5, Government Code.