

## INFORMATIONAL HEARING

### *Government Contracting in California: Impacts of Proposition 209*

#### A HEARING OF THE ASSEMBLY JUDICIARY COMMITTEE

February 24, 2015  
10:00 a.m. – 12:00 Noon  
State Capitol Room 4202

#### Summary of Ideas and Proposals Generated at Hearing

1. There is an immediate need for the “unbundling” of state contracts so that larger projects can be broken down into smaller projects, allowing small businesses the opportunity to bid on state government projects on a more frequent basis.
2. Small business set-aside: (a) Codify Gov. Schwarzenegger’s Executive Order regarding 25% Small Business inclusion, (b) Make the guideline into a mandate, and (c) Apply the set-aside to all agencies, including JPAs.
3. Local governments should develop local business set-aside rules and participation goals (e.g. SFCC Chinatown example).
4. The term “small business” could be defined in a more meaningful way, perhaps by business type or industry. The amount of a contract does not necessarily reflect the size of a business, especially in fields such as electrical contracting, where all contracts are likely to have high dollar amounts.
5. Arbitrary RFP restrictions could be revised to allow “equivalent,” rather than “exact,” experience to be considered. Requiring a track record of experience perpetuates the same contractors getting state contracts because it excludes newer and smaller businesses, which are more likely to be owned by women and minorities.
6. Require data collection from prime contractors, sub-contractors, even on Design Build projects.
7. Implement a two-tiered data collection system for small businesses. The state would track data related to small businesses that are at least 51 percent owned and managed by persons of color or women and which voluntarily certify their business as MBE, WBE, or MWBE with a third-party entity.\* This would provide a set of voluntarily submitted data related to race, ethnicity, and gender collected with a questionnaire that is required to be returned. The form could have a decline to state option, but would still be subject to a requirement that it be returned to the soliciting department or agency. The state would

report MWBE data, both certified and non-certified, in a standard way for all state agencies. (Currently it is not standardized.)

8. Study Washington State's Supplier Diversity Program to consider whether a similar program could be introduced in California
9. Implement a Project Manager Oversight system to ensure that departments and agencies implement existing policies in their contracting activities. This will increase compliance and awareness about how contracts are being awarded. This oversight system would allow for corrections of any impediments to existing policy as they are discovered or encountered.
10. Look at the federal government's Underutilized Business Program to see if California can implement some of the more successful parts of the program.
11. Look at the Caltrans "Consensus Scoring" pilot project and determine if it has a negative impact on small, women and minority owned businesses.