AMENDED IN ASSEMBLY MARCH 19, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL No. 1365

Introduced by Committee on Veterans Affairs

February 22, 2019

An act to amend Section 999.5 of the Military and Veterans Code, relating to disabled veterans.

LEGISLATIVE COUNSEL'S DIGEST

AB 1365, as amended, Committee on Veterans Affairs. Disabled Veteran Business Enterprise Program.

Under existing law, the administering agency for the California Disabled Veteran Business Enterprise Program is the Department of General Services, except in the case of contracts for professional bond services. Existing law requires the Director of General Services to adopt written policies and guidelines establishing a uniform process for state contracting to provide a disabled veteran business enterprise (DVBE) participation incentive to bidders, which all state agencies are required to use when awarding contracts.

Existing law requires an awarding department, upon completion of an awarded contract for which a commitment to achieve a DVBE goal was made, to require the prime contractor that entered into a subcontract with a DVBE to certify to the awarding department specified information relating to amounts paid under the contract.

This bill *would require an awarding department to directly inform a DVBE of its inclusion in an awarded contract when the DVBE has been identified as a subcontractor within the awarded contract. The bill* would require an awarding department to maintain all records of the information provided by the prime contractor pursuant to ~~those~~ *these*

provisions and to retain the records for a minimum of 6 years after collection. The bill would direct the awarding department to establish appropriate review procedures for those records to ensure the accuracy and completeness of the award amounts and paid amounts reported.

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

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

SECTION 1. Section 999.5 of the Military and Veterans Code is amended to read:

999.5. (a) The administering agency for the California Disabled Veteran Business Enterprise Program is the Department of General Services, except in the case of contracts for professional bond services. The Department of General Services shall consult with the California Disabled Veteran Business Enterprise Program Advocate, appointed by the Secretary of the Department of Veterans Affairs pursuant to Section 999.11, on all matters relating to the California Disabled Veteran Business Enterprise Program. The Director of General Services shall adopt written policies and guidelines establishing a uniform process for state contracting that would provide a disabled veteran business enterprise participation incentive to bidders. The incentive program shall be used by all state agencies when awarding contracts.

(b) The Department of Veterans Affairs shall do all of the following:

(1) Establish a method of monitoring adherence to the goals specified in Sections 999.1 and 999.2.

(2) Promote the California Disabled Veteran Business Enterprise Program to the fullest extent possible.

(3) Maintain complete records of its promotional efforts.

(4) Establish a system to track the effectiveness of its efforts to promote the California Disabled Veteran Business Enterprise Program, which shall include regular, periodic surveys of newly certified disabled veteran business enterprises to determine how they learned of the program, why they became certified, and what their experience with awarding departments has been.

(c) An awarding department shall not credit toward the department's 3-percent goal state funds expended on a contract

with a disabled veteran business enterprise that does not meet and maintain the certification requirements.

(d) Upon completion of an awarded contract for which a commitment to achieve a disabled veteran business enterprise goal was made, an awarding department shall require the prime contractor that entered into a subcontract with a disabled veteran business enterprise to certify to the awarding department all of the following:

(1) The total amount the prime contractor received under the contract.

(2) The name and address of the disabled veteran business enterprise that participated in the performance of the contract.

(3) The amount each disabled veteran business enterprise received from the prime contractor.

(4) That all payments under the contract have been made to the disabled veteran business enterprise. An awarding department shall keep that certification on file. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation in the minimum amount of two thousand five hundred dollars ($2,500) and the maximum amount of twenty-five thousand dollars ($25,000). An action for a civil penalty under this subdivision may be brought by any public prosecutor in the name of the people of the State of California and the penalty imposed shall be enforceable as a civil judgment.

(e) An awarding department shall maintain all records of the information provided by the prime contractor pursuant to subdivision (d) and shall establish appropriate review procedures for those records to ensure the accuracy and completeness of the award amounts and paid amounts reported. The records shall be maintained in a manner that facilitates access and review by external auditors. Records collected pursuant to this subdivision shall be retained for a minimum of six years after collection.

(f) When a disabled veteran business enterprise has been identified as a subcontractor in an awarded contract, the awarding department shall directly inform the disabled veteran business enterprise of its inclusion in the awarded contract.

~~(f)~~

(g) A prime contractor may, subject to the approval of the Department of General Services, replace a disabled veteran business enterprise identified by the prime contractor in its bid or

offer, pursuant to subdivision (a) of Section 999.10, with another disabled veteran business enterprise.

~~(g)~~

(h) The administering agency shall adopt rules and regulations, including standards for good faith efforts, for the purpose of implementing this section. Emergency regulations consistent with this section may be adopted.

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