



Employment Training Panel

Memorandum

To: ETP Policy Committee
Gretchen Newsom, Chairperson
Janice Roberts, Member
Rick Smiles: Member

Date: June 10, 2021

CC: Executive Staff
Reg Javier, Executive Director
Peter Cooper, Assistant Director

From: Lis Testa, Policy Manager

Subject: ETP Policy Committee Meeting Agenda Item 5.a.
Proposal/Action Item Re: Definition of Entity

I. Brief Issue Statement:

ETP currently has no set definition for 'business entity'. We use the terms 'contractor' and 'affiliate', but do not have any concrete definition for these terms, either.

This lack of a set definition causes multiple issues at various stages of our contracting process. For example: when companies with similar names come in for separate contracts, while other companies with similar names come in as affiliates on a single contract; determining how entities are related to each other; determining what entity is subject to the Repeat Contractor Rule; and more.

We have discussed this issue at previous Policy Committee meetings, especially in regards to defining affiliates. At those prior Committee discussions, it became clear that asking for ETP applicants to provide their 'corporate structure' in order to determine the ways that different business entities are related to each other would be cumbersome and difficult for stakeholders to provide, and for staff to analyze. At these previous discussions, we collectively realized that we actually need a way to define what an individual business entity is, before we can begin to address the other related issues and our processes for handling them.

II. Definition of Entity: Options:

In order to be logistically feasible, we need our definition of entity to be concrete and easily identifiable. This will make it easier for stakeholders to provide 'entity' information, instead of requiring them to provide their entire corporate structure

information. It will make it easier for staff, since there will be much less for them to analyze, and no real 'grey areas' that could make it difficult to determine entity status.

So, we have basically two options: using either the California Employer Account Number (CEAN) or the CA Secretary of State Entity Number (SOS #) to define an entity.

There are benefits and drawbacks to using both of these identifiers... Some positives of each are:

- ETP already has access to databases where we can easily find and verify this information;
- These are both concrete numbers that will eliminate any grey areas in determinations.

Regarding the CEAN:

- Benefit: This number is used for state tax collection purposes, and is the number associated with collections of the Employment Training Tax (ETT), which funds the Employment Training Fund (ETF), which is ETP's main source of funding.
- Benefit: One main eligibility requirement for nearly all Single Employers and Participating Employers in MECs is that they are paying into the ETF – and we use the CEAN to look them up in the database that shows their ETT status. So use of the CEAN is already a part of our existing processes.
- Benefit: We are already using the CEAN as a unique identifier, both for Single Employers and for Participating Employers.
- Possible Drawback: one entity (per the SOS) can have more than one CEAN within it.
 - o For example: a large corporation (one entity) may have multiple CEANs: one for each division of their company, or one for each location.
 - o Therefore, if we use the CEAN to define a business entity, than one single company may be able to hold multiple ETP contracts simultaneously.

Regarding the SOS #:

- Benefit: We already look up applicants in the Secretary of State's database to ensure that they are, in fact, registered to do business in California and are in good standing as part of our eligibility determination procedures. The SOS # is found in the same database that we already use.

- Benefit: The SOS database also gives us what we use as the legal name for our contractors – so if we use the SOS entity number to define entity, it will match with legal name/contractor.
- Possible Benefit: There can be multiple CEANs underneath one SOS # (although this is not always the case). Therefore, if we use the SOS # to define entity, we may be able to have more control over our funding situation by being able to consolidate multiple preliminary applications into one project.
- Drawback: Sole Proprietorships and Limited Partnerships do not appear in the SOS database – so they either do not have entity numbers or will be harder (or not possible) to confirm. (LLCs, LLPs, and Corporations are included in the SOS database).
 - o We do not see many Sole Proprietorships or Limited Partnerships

One additional note: we will continue to use the CEAN for eligibility purposes. This is necessary for us to determine if the employer has been paying the ETT, one of the main eligibility requirements for our program. If we decide to use the SOS # to define entity, and a single SOS # has multiple CEANs underneath it, then we will collect all CEANs under the SOS # that apply to trainees who will participate in the ETP contract. Therefore, using the SOS # to define business entity gives us a type of ‘hybrid’ approach where we use the SOS # to define entity and simultaneously use all participating CEANs for eligibility.

III. Recommendation:

Staff would like to know if Committee or stakeholders have any feedback or desire for more discussion on these items. We also would like to know which way Committee prefers to define entity, and a motion for such.