



California Department of General Services (DGS)

SB/DVBE Advocate Workshop Meeting Minutes

Date: December 3, 2019

Time: 1:30-4:00pm

Location: Department of Consumer Affairs
1747 N. Market Blvd, #186
Sacramento, CA 95834

Meeting Facilitators: Michael Aguilio and Darvin Manuel

Recorder: Stacie Gandy, Michele Sakamoto, Rose Skewis

Call to Order

Meeting called to order at 1:33 pm by Michael Aguilio, Department of General Services.

Attendance

Attendees: Michael Aguilio, DGS; Stacie Gandy, Caltrans; Darvin Manuel, DGS; Nina Martinez, CDCR; Michele Sakamoto, Parks & Rec; Rose Skewis, CalVet; List of attendees and call in participants available upon request

Absent: Tracy Bowen, CHP

GO-Biz – Isabel Casillas-Guzman, Director, Office of the SB Advocate

- Purchasing is a priority in the Governor's office and will focus on best practices and collaboration
 - \$100 million in funding over a 5-year period
 - Allocations provided through the SB Technical Assistance Program (SB TAEP) such as PTAC, SBDC, veteran business centers, and women and minority business organizations (80 grantees)
 - Expand in Southern CA
- Launch an Entrepreneurship Task Force
 - Working groups to share ideas and provide listening sessions
 - "Shop Local" campaign: Focus on amplifying shopping local and with small businesses
 - SB Saturdays through the next few months
- Launch cross-agency outreach/training collaboration
 - Initiatives to simplify the procurement process for small businesses
 - Dec 12, 2019- LA Chamber of Commerce
 - Advisory Council, DGS, and Caltrans

- FTB, EDD and DGS to cross train on relevant issues
- Recovery Efforts and Initiatives
 - PSPS/Fires
 - Using social media, podcasts and news stories
- Open-door policy
 - Contact Go-Biz with any ideas or red flags
 - Seeking collaboration

Legislation – Ken DeVore, DGS

The following bills discussed are an overview for informational purposes only and do not reflect DGS's positions or recommendations.

- **AB 230 (Brough): DVBEs- Chaptered** – signed into law by Governor Newsome
 - This bill is in response to the State Auditor Reports from 2014 and 2019 on DVBE participation
 - Requires primes to provide proof of payment to DVBEs at the end of the contract to awarding department
 - Requires awarding department to submit revised reports to DGS to reflect any difference between the subcontracted amounts in the bid and the actual amounts paid
 - Mandates every state contract with DVBE participation to contain a provision requiring the contractor to comply with all rules, regulations, ordinances, and statutes that apply to the California DVBE Program
 - Requires primes to use the DVBE subcontractors or suppliers proposed in the bid or proposal unless a substitution is requested and approved
- **AB 572 (Kalra): Procurement of Goods from Deforestation** – Two-year bill (Senate Appropriations)
 - Establishes the California Deforestation-Free Procurement Act
 - Requires a contractor and specified subcontractors to certify that their goods do not derive from global deforested regions occurring after 2020 – they will need to know the supply chain for each product (like soybean or palm oil)
 - Applies to contracts entered into after 2022. The business community says that these requirements would be very onerous to contractors, and very difficult, if not impossible, for them to meet. Even contractors offering products grown in the United States may be unable to provide the supply chain tracing this bill requires
 - DGS would have to develop and issue a Deforestation-Free Code of Conduct document that includes a list of “forest-risk” commodities, as defined
 - Would further require contractors (excluding public works contractors) that sell products to the state that include forest-risk commodities to have a No

Deforestation, No Peat, No Exploitation (NDPE) policy and to make specific certifications

- Provisions of this bill would not apply to credit card purchases of goods of \$2,500 or less; this exemption would be limited to purchases up to \$7,500 from a single vendor annually

- **AB 971 (Salas): High Value IT Contracts - Chaptered – Signed into law**

- Not specific to DVBEs
- High-value IT contracts, over \$500,000, requires post-evaluations for consulting services
- Requires department to conduct departments to conduct an evaluation for these contracts and keep the evaluation on file for 36 months. If the contractor did not satisfactorily perform the work specified in the contract, the department would submit a copy of the evaluation to the Department of Technology. The contractor would have the right to respond to an unsatisfactory evaluation and have that response kept on file with the evaluation
- Requires DGS and the Department of Technology to jointly develop the form to evaluate contractor performance
- Evaluations and contractor responses would not be public records, but would be made available from the Department of Technology at the request of another state agency
- Although the new law may not require awarding agencies to review unsatisfactory evaluations prior to awarding a contract for IT services, the state can take administrative steps to ensure unsatisfactory evaluations are considered. The state already has broad authority to exclude contractors with a history of unsatisfactory performance from bidding on future contracts. Thus, the unsatisfactory evaluations that may result from this bill may be useful in documenting the history of a particular service provider's poor performance. In fact, the Department of Technology has indicated that it will use the unsatisfactory evaluations for this purpose
- When this bill was introduced, it dealt with construction contractors. After receiving significant opposition, the author changed it to IT contracts

- **AB 1365 (Veterans Affairs Committee): DVBE Participation - Chaptered – Signed into law**

- Links with AB 230
- When a commitment is made to meet a DVBE participation goal on a state contract, at the completion of the contract, the prime contractor must submit a certification as to the amount each DVBE subcontractor has been paid
- Requires awarding departments to review these reports to ensure their accuracy and completeness; this entails the departments establishing and maintaining procedures for review. Awarding departments would be

required to maintain these records for a minimum of six years in a manner that facilitates access and review by external auditors

- Assembly Committee on Veterans Affairs states that this bill will improve management and oversight of the DVBE program by enhancing record-keeping and notification procedures by awarding departments
- **SB 588 (Archuleta): DVBE Contracts** – Two-year bill (Assembly floor)
 - Existing law requires an awarding department of a DVBE contract to require the prime contractor to certify the amounts paid to DVBEs under the contract. Existing law subjects a person or entity that knowingly provides false information on this certification to certain criminal and civil penalties.
 - Requires an awarding department to withhold \$10,000, or the full payment if it is less than \$10,000, from the final payment on a contract until certification of DVBE payment is received by the awarding department
 - Requires the awarding department to give a prime contractor that fails to meet those certification requirements 15 to 30 calendar days to cure the defect. If not, the final payment is permanently deducted
 - Exempts public works projects
- **AB 1808 (Sabrina Cervantes): 2-Year Bill** (gutted into carpet bill)
 - This bill would have required the California Small Business Advocate to collaborate with the California DVBE Program Advocate regarding the implementation of the California DVBE Program.
 - It was amended to deal with carpet installation and therefore no longer relevant.
- **AB 1809 (Sabrina Cervantes): 2-Year Bill** (Senate Appropriations)
 - The Small Business/DVBE Option allows state agencies to award contracts worth up to \$250,000 after obtaining quotes from two certified small businesses or DVBEs (no bid).
 - This bill would increase the maximum dollar value of those contracts to \$500,000.
 - It would also prohibit a small business or DVBE from receiving a preference or incentive on those solicitations (which is already current law). It also includes a lot of enforcement measures, like requiring awarding departments to post certain information submitted by prime contractors on their websites and requiring the Department of Veterans Affairs (CalVet) to maintain specified records of its promotional efforts related to the DVBE program.
 - There are concerns with potential increased costs to the state by raising the contract limit. There is also disagreement within the small business and DVBE communities over such an increase as they don't believe it will widen the pool of businesses awarded contracts.

- Know when to include the DVBE requirement and how to apply the Incentive
- Perform market research
 - Get word out to community
 - Let suppliers know what they need to apply
- Best way to meet participation is to include a DVBE requirement, i.e., goal, or incentive in all appropriate solicitations. Do what your policy states
- Waiver is for one purchase; it is not a blanket waiver. The approval process takes approximately 3 days and requires justification.
- Be careful of when writing the goal requirements/incentives. If stated “requirement”, then the goal **must** be met or exceeded the requirement. However, exceeding 5% may result in a dispute.
- Goal calculations round down not up. Obtaining 4.99% participation does not meet a 5% goal
- Evaluating responses: check certification to ensure it is active and in good standing. If the certification will be expiring soon, they will need to be recertified prior to starting any work.
- Ensure substitution rules are followed
- Bidder declaration form: verifies who’s working on the contract and the work they perform, CUF compliance, and returned with every bid. Verify the percentage. Can also be verbal for emergency contracts.
- There is not a statewide standard checklist. However, departments can create their own internal checklist.
- Four different preference and incentive programs. Order of application is stipulated in codes. Calculation is from net bid. For evaluation purposes only. Document and maintain preference and incentive calculations for audit purposes.
- If SB is the low bidder, don’t apply the preference
- Non-SB
 - Preference cannot displace an SB firm
 - If they commit to subcontract 25% to SB, they could be eligible for the 5% preference
- Micro Business (MB) is treated as Small Business (SB)
- DVBE incentive: each supplier may have different participation amounts
- SB preference determines who gets the DVBE incentive. If SB is the low bidder, only SBs get the DVBE incentive
- There is no SB preference calculations for Fair and Reasonable (FNR), SB/DVBE option or Leverage Procurement Agreements or if the SB is already the lowest bid.
- Applying the preferences and calculation exercises were completed
- Preference and Incentive Thresholds:
 - SB: 5% Preference - \$50,000 cap
 - Recycle: 5% Preference - \$100,000 cap (*unless it precludes award to a SB, then it is capped at \$50, 000*)
 - DVBE Incentive: 1-5% Incentive - \$100,000 cap

- DVBE waiver is approved by DGS
- CalPCA provides free training
- Request copy of Molinda's presentation through Advocate@dgs.ca.gov

20th Annual SARA Ceremony – Matt Zweier, DGS

- Jan 29, 2020, 10 am – 1 pm, Citrus Heights Community Center
- Recognizes and celebrates SB/DVBE Advocates and Agencies
- Two new awards
- Award recipients are either nominated or determined by CAR reports
- Provide requested photos if received an email from DGS/SARA
- Register to attend; registration closes two weeks before ceremony
- Advertised on DGS website; event page includes registration link

Upcoming Events – Michele Sakamoto, Parks & Rec

- 12/13/19 Honor a Hero, Hire a Vet – Hosted by EDD & America's Job Center of CA - Orange Co
- 1/7/20 Momentum's SBIR Acceleration Service – Online Presentation
- 2/18/20 Expand Your Business: Contracting with California State Government- Hosted by PTAC/Caltrans D2 - Redding
- 2/19/20 Expand Your Business: Contracting with California State Government- Hosted by PTAC/Caltrans D1 – Eureka
- 2/20/20 Doing business with the State of California - Hosted by DGS - Santa Rosa
- 3/19 Contractors Boot Camp, Caltrans D2- Redding
- 4/8 Central Valley Diversity Expo, Fresno Metro Black Chamber of Commerce
- 4/23 Doing Business with the State of CA and Becoming SB Certified, SBDC Napa- Sonoma

Advocate Updates – Darvin Manuel, DGS

Department SB/DVBE First Policy, Best Practices and Department Discussion

What can Advocates do to support small businesses?

- Calfire- Gained information from the CAR Report and contacted over 5,000 businesses they did work with in 2018, that were not certified. Goal is to help them get certified.
- DGS- Darvin recommended rotating the businesses that are being used rather than the same businesses all the time.
- CalVet- Rose recommended empowering staff to be proactive and perhaps offering training. Isabel from Go-Biz also mentioned being proactive, empowerment, leadership and assisting business by “translating government” policies and practices to them.

- Discussion on how to best utilize capabilities statements and forwarding them on to other advocates. It was determined that advocates seem to be receiving multiple copies between the agencies, list serves, and the businesses themselves.
- Encourage businesses to send emails rather than calling the advocates.
- Calvet also mentioned developing an email template for department-wide use. The template would be sent to non-certified firms and describes SB/DVBE certification; the department's SB/DVBE First policy, if applicable; and provides links to DGS for the firm to obtain additional information about eligibility and the application process. Post template on department's intranet and promote its use to build a department-wide culture for SB/DVBE advocacy.

What agencies are working on a SB/DVBE First Policy?

- CalRecycle: policy is being vetted
- Parks & Rec: revising policy
- First 5 CA: working on this now; hope to vet within next five months
- SWR Control Board: undergoing management review; hope to implement before year end
- CalFIRE: draft routed for approval; have an extensive number of approvers
- FI\$Cal: working on draft; hope to implement within the next two months
- DGS is happy to help any agency and can provide examples

Are all advocates at an AGPA level?

- It appears that the majority of the advocates are at the AGPA, however some are above an AGPA level.

The following advocates are above an AGPA Level – SSMI or Higher

- Ken Terry, SSMII, CDCR (Nina has duty statement)
- Peter Tran, SSMI, CDCR
- Jessica Biro, Caltrans D5, SSMI
- Oksana Kolisa, Caltrans OBEO, SSMI

Action Items

- Action Item 1
 - Description: Advocates to Send Duty Statements to Darwin Manuel for review.

Meeting Adjourned

Michael adjourned the meeting at 3:59 p.m.