



California Department of General Services (DGS)

Small Business Advisory Council (SBAC) Meeting Minutes

Date: March 10, 2021

Time: 1 – 3 p.m.

Location: Zoom

Meeting Facilitator: Angela Shell, DGS SBAC Co-Chair

Recorder: Jolene Hulick, OSDS Business Outreach Liaison

The regular quarterly meeting of the DGS SBAC was called to order by Co-Chair Angela Shell at 1:02 p.m.

Attendance was taken; a quorum was present.

Agenda Changes

Angela Shell requested a vote to change the agenda to reflect amendments made to the agenda since it was posted publicly. The council voted without objection to accept the changes.

Meeting Minutes and Past Action Items

The council voted without objection to approve the meeting minutes from the previous meeting. Jolene Hulick reviewed the status of past action items; all have been completed except for the following:

- The Committee SharePoint site
 - This action item is currently being evaluated by DGS IT and the DGS Office of Legal Services, a Microsoft Teams channel is now being considered.

Angela Shell, DGS Updates:

Angela Shell, Deputy Director of the Procurement Division and DGS Co-Chair provided an update on DGS. Director Daniel Kim has left state service. Newly appointed DGS Chief Deputy Director Jennifer Osborn is acting DGS director. (As of March 19, 2021, Governor Newsom appointed Ana Lasso as the DGS Director).

DGS spent the past year supporting statewide pandemic-related efforts and is currently assisting with vaccination efforts involving two state/federal vaccination sites. In these efforts the DGS Procurement Division conducted procurement with SBs and DVBES.

One statewide procurement for N95 and surgical 3-ply masks was awarded to many SBs and DVBEs. These PPE contracts are intended to be used for multiple needs, not just the pandemic. Other states can utilize this contract. The state does not have plans to issue additional contracts for PPE as current quantities are sufficient.

The 2019-20 Consolidated Annual Report (CAR) demonstrates the success of meeting our SB/DVBE goals, refer to Nancy Huth's report below for details.

Angela asked that the council members review current legislative bills related to SBs. Roberto Herrera, CalVet Updates:

Roberto is the Chief of Veteran Community Engagement for CalVet. His staff collaborate with DGS and DVBEs via the CA Veteran Transition Assistance Program. They recently developed a new process called the Request for Response. Visit the [CalVet website](#) for a description. The process' goal is to create a pathway to get veteran issues in front of the DVBE Advisory Council administered by CalVet. To date, most questions have related to how to effectively use the DVBE certification. The DVBE Advisory Council hope to receive information that will help with policy, statutory or program abuse issues to improve process. Contact dvbe@calvet.ca.gov.

Chris Earl, GO-BIZ Updates:

Christopher Earl, Southern California Regional Lead Advisor for the Office of the Small Business Advocate of the Governor's Office of Business and Economic Development (GO-Biz), provided updates on their office's work. The Legislature approved \$2.075 Billion for their SB Covid-19 Relief grant program. The program is currently in Round 3 and only considering applications from the waiting list. Additional rounds including for non-profit cultural institutions from March 16-23, 2021 are forthcoming. See <https://careliefgrant.com/> for more information. Go-Biz also began a procurement basic training program targeted at SBs and non-governmental entities, assisted by corporate partners. Additional training is forthcoming.

Carl Josephson, Commercially Useful Function (CUF) Brochure:

Carl Josephson, OSDS Compliance and Quality Assurance Manager, provided an update concerning the recently redesigned CUF brochure. This tool covers CUF requirements through all stages of contracting, including consequences, and includes updates that make the content clearer for the SB/DVBE community. The CUF brochure is available at :

<https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/Commercially-Useful-Function-for-Certified-Firms?search>

Jordan Aquino, Legislative Updates:

DGS Tracked Bills, Specific to the SB and DVBE program.

Three bills that would directly impact the SB and DVBE programs are:

1. [AB 247 \(Ramos\) Definitions: Small Business Procurement and Contract Act.](#)
This bill initially expressed the intent of the author to modify the definition of “small business,” for purposes of the Small Business Procurement and Contract Act (Government Code Section 14835, et seq, (The bill has since been amended to give immunity to small businesses and nonprofits against consumers who claim they contracted COVID while doing business with the small business or nonprofit.).
2. [AB 915 \(Chiu\) Small and disadvantaged business enterprises.](#)
This bill would, among other things, incorporate a definition for “socially and economically disadvantaged individuals” into the Small Business Procurement and Contract Act. Additionally, this bill would establish a 25 percent participation goal for small, disadvantaged, or disabled veteran business enterprises in statute. Small, disadvantaged, and disabled veteran business enterprises are all grouped together in that 25 percent participation goal. However, this bill does not modify the 3 percent participation goal that currently exists separately for DVBEs in the Military and Veterans Code. Additionally, this bill would include disadvantaged business enterprises in the SB/DVBE Option. Finally, this bill would create a new separate disadvantaged business enterprise 5 percent bid preference.
3. [AB 1244 \(Mathis\) California Disabled Veteran Business Enterprise Program.](#)
Existing law requires that the disabled veteran-owner must be domiciled in California for his or her business to qualify for DVBE certification. This law would expand the definition of DVBE to allow for disabled veteran-owners who may be living in other states but are doing business in California. This would mean more businesses would be able to qualify for DVBE certification.
4. [AB 1574 \(JED&E Committee\) Disabled Veteran Business Enterprises.](#)
This bill would require bids that include a DVBE subcontractor provide the DVBE’s name, certification number, and contact information. It would require that the prime contractor sign under penalty of perjury that the DVBE subcontractor perform a commercially useful function. Finally, it would allow any public prosecutor to bring an action for a violation involving a knowingly fraudulent representation that a commercially useful function is being performed by a DVBE in order to obtain a bid preference on a state contract.

DGS Tracked Bills, General State Procurement

The next two bills are bills that would have a general impact on the state’s procurement of specified commodities.

1. AB 416 (Kalra) California Deforestation-Free Procurement Act: public works projects: wood and wood products.
This bill would require DGS issue a Deforestation-Free Code of Conduct that identifies “forest-risk” commodities. Further, this bill would require state contractors that provide forest-risk commodities to the state to adopt a No Deforestation, No Peat, No Exploitation Policy
2. AB 778 (E. Garcia) Institutional purchasers: purchase of California-grown agricultural products.

This bill would prohibit state-run institutions—including state universities, community colleges, and K-12 schools—from purchasing agricultural products that are not grown in California, unless the product is not available from an in-state source or is not grown in California.

Non-DGS Bills, not tracked by DGS, but of potential interest to Small Businesses

1. AB 91 (Valladares) Taxation: corporations: minimum franchise tax: limited liability companies: annual tax: small businesses: microbusinesses.
2. AB 255 (Muratsuchi) Tenancy: commercial leases: COVID-19 rent relief.
3. AB 310 (Santiago) Public banks.
4. AB 349 (Holden) Department of Transportation: contracting: underrepresented groups.
5. AB 632 (Ramos) Minimum franchise tax: small business fees.
6. AB 664 (Bigelow) Taxation: Corporation Tax Law: annual tax: small businesses.
7. AB 806 (Chen) Taxation: corporations: minimum franchise tax: limited liability companies: annual tax: suspension.
8. AB 820 (Cooley) Capital Access Loan Program: small businesses.
9. AB 994 (Patterson) Income taxation: exclusion: California Small Business COVID-19 Relief Grant Program.
10. AB 1564 (Committee on Insurance) Small business guide to commercial insurance.
11. SB 74 (Borgeas) Keep California Working Act.
12. SB 430 (Borgeas) Small businesses: reduction or waiver of civil penalties for violation of regulations or statutes.

SBAC Committees' Updates:

- Shaila Rao Mistry, Processes Committee:
 - The committee has narrowed their priorities from 12 down to six because the work of the Process Committee is wide-ranging.
 1. Prompt Payment: The committee is exploring reasons SBs are being paid late and who is responsible for ensuring prompt payment. They are also exploring ways to advocate for better prompt payment terms and ways to educate SBs on the subject.
 2. Competitive Bidding: The committee's goal is for certified firms to have fair access to competitive bidding. To do this, they are looking at options that include dashboards, diversifying the number of SBs who receive contracts, breaking up large contracts, and outreach/training opportunities to support competitive bidding.
 3. Procurement Process: The committee has a goal to address the bidding processes to make it easier for SBs and DVBES to bid on contracts and get paid.
 4. The committee mentioned the new CMAS portal DGS is creating to streamline the use of CMAS and expressed interest in seeing the new portal and being involved in the project.

5. The committee requested committee chairs look at committee priorities and provide direction.
 6. The committee recommends marketing upcoming contract opportunities to business communities using media.
- Jay King, Outreach, Education and Legislation Committee:
 - The committee discussed creating partnerships, hosting online meet and greets with a collaborative focus, becoming allies, not adversaries, preventing competition, and becoming helpful to others related to issues that impact SBs.
 - The committee commits to becoming more inclusive and invited Jai Sharma to present the sensitive issues small business face in their efforts to contract with the state, particularly microbusinesses. The committee's focus is narrowing on specific barriers SBs face when pursuing contracts and how best to support their efforts to overcome those barriers. Examples of a barrier is having many years of experience in state contracting and robust insurance, both out of reach for small emerging businesses. The committee has been in conversation with Carol Bangs in DGS Acquisitions Branch about these and other state procurement requirements.
 - Angela Shell requested the Outreach committee provide DGS a list of the common barriers SBs experience. This list can help guide DGS' actions to support those businesses, including the creation of more and better training for those businesses. The committee has been compiling a list of issues. Jai will share that list after the council meeting.
 - Philip Vermeulen, CUF Committee:
 - Phil and other council members have gathered information about CUF issues DVBEs report and express that those reports do not go anywhere and that is frustrating. (On March 17, 2021 OSDS reached out to the committee's chair to obtain the list of CUF issues and offer options for DVBEs to report violations. Pending receipt of CUF issues information.)
 - The committee discussed AB 1574, currently dealing with CUF violations involving DVBEs, but the bill's authors plan to expand the bill to include SBs. The bill also empowers public prosecutors to pursue action against CUF violators and establishes penalty of perjury clauses for CUF claims made by contractors. DGS is named in the bill in relation to public prosecutors' abilities to take action against CUF violators. The committee is specifically asking how DGS will assist.
 - The council discussed how state departments conduct CUF evaluations and validate businesses follow CUF. The process is not uniform and varies based on the department and the specific contract.
 - Phil further expressed the need for a process involving DGS to resolve CUF violations.

- Angela Shell shared information about the DGS process, and actions DGS is taking to address CUF violations.

Angela Shell, SBAC Charter Updates:

OSDS sent the updated charter by email on March 1, 2021 inviting members to provide feedback. No feedback was received; therefore, Angela renewed the invitation for comments, explaining an update is needed based on how the council is operating at this time. The CUF committee members agreed with the proposed updates. Other members of the council asked for more time to review the proposed changes. DGS committed to re-send the proposed changes and give the council more time to review. Angela then clarified the committee chair replacement process when a vacancy occurs. When someone fills a vacancy, the person will hold the position until the next appointment process. Council members recommended agendas be used for committee meetings.

Council members again inquired about a method for sharing documents such as the charter or agendas. DGS is working on a short-term solution for document sharing in addition to the action item to create a SBAC Site.

Nancy Huth, Certification Updates:

Nancy Huth, OSDS Certification Manager, provided the following updates:

- Consolidated Annual Report (CAR) Preliminary Numbers
 - The state spent around almost \$12 billion in 2019-20, with more than one-third on emergency expenditures.
 - Met the DVBE participation goal at 3.87% for the 12th year in a row.
 - The state was close but did not meet the SB participation goal at 23.7%.
 - Even though the SB goal was not met, the dollar amount that went to SB was significantly higher than previous years at approximately \$2.8 billion; over -half of the amount went to microbusinesses.
 - Without emergency procurements, the state would have exceeded both goals, reaching 36.2% in SB participation and 5.5% in DVBE participation.
- Senate Bill 588 became effective January 1, 2021
 - The bill requires an awarding department, upon completion of a contract that has DVBE subcontractor(s) to withhold \$10,000, or the full payment if it is less than \$10,000, from the final payment on a contract until the prime contractor certifies in writing to the awarding department that the committed dollar amount, percentage of work and all payments have been made under the contract to the DVBE subcontractor(s).
 - DGS is currently working on the implementation of this Senate bill and guidance for state departments.

- Late Payment Penalty Paid Report for 2019-20 is on the DGS website. It is in an updated dashboard with data for the four most recent fiscal years. There is a dropdown where the user can choose the year they would like to review. Here is the link to the dashboard: <https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/Late-Payment-Penalty-Paid-Reports?search=prompt%20payment>
- OSDS has completed the one-year SB/DVBE certification extensions to almost 6,600 certified firms that were expiring between September 2020 to May 2021. This was done to help certified firms during the COVID-19 pandemic.

Araceli Mohseni, Outreach Updates:

Araceli Mohseni, OSDS Business Outreach Liaison, provided the following updates:

- **Cal eProcure website was redesigned and is now live**
 - It has a new look and feel to make it more user-friendly. An email announcement was sent on Friday February 12, 2021 to all SBs and DVBEs, state Advocates, SBAC, and CalVet DVBE Advisory Council. We invite everyone to visit the new site: <https://caleprocure.ca.gov>.
 - Matt Zweier, OSDS Business Outreach Manager, gave a live demonstration of the redesigned Cal eProcure website.

Angela Shell called for public comments.

- There were no public comments.

Leslie Fritz, Action Items Review:

Leslie Fritz, OSDS Business Outreach Liaison, reviewed the new action items created by the discussion at this meeting. They are:

New action items from March 10, 2021 meeting:

1. DGS to share Jordan Aquino's legislative update with SBAC members.
2. Process Committee to share the updates presented at the council meeting.
3. Outreach committee to share a list of barriers SB/DVBEs encounter.
4. DGS to provide a list of state and federal certifications to council members.
5. DGS to send an email reminder with due date for receiving comments on the charter.
6. DGS to send out the link to the video highlighting Linnea Willis Smith, owner of Quality Cleaning Professionals, a certified small, minority, woman-owned business who has thrived during COVID: <https://www.youtube.com/watch?v=4jGT3ELeaz4>

Carry forward action item from December 15, 2020:

1. The Committee SharePoint site - This action item is currently being evaluated by DGS IT and the DGS Office of Legal Services.

Angela Shell, Closing Remarks:

- Angela will explore the following items:
 - Extending meeting times to make room for additional discussion.
 - Scheduling additional meeting with the Chairs and committee leads between quarterly council meetings.

The next meeting is scheduled for July 14, 2021 at 1 p.m. A motion to adjourn was received and seconded; the council adjourned at 3:00 p.m.