

California Department of General Services (DGS)

Small Business Advisory Council (SBAC) Meeting Minutes

Date: Wednesday June 7, 2023

Time: 1 – 4 p.m.

Location: DGS Ziggurat, 8th Floor, Conference Room and Zoom

Meeting Facilitator: Angela Shell, Deputy Director, DGS SBAC Co-Chair

Recorder: Diane Lydon, Office of Small Business and DVBE Services (OSDS) Business Outreach Liaison

The regular quarterly meeting of the DGS SBAC was called to order by Co-Chair Angela Shell at 1:03 p.m. Attendance was taken; a quorum was present.

New Member Introduction

James Simonelli, new member was welcomed and introduced by Angela Shell.

Meeting Minutes and Past Action Items

A motion was made by Don Stoneman and seconded by Jay King to approve the March 1, 2023, meeting minutes. The motion passed without objection.

Matt Zweier, OSDS Business Outreach Manager, reviewed last meeting's Action Items. The status of all Action Items were reported as completed.

1. Send link to Broadcast Bulletin summarizing 2022 passed legislation impacting procurement practices.
2. Share CalOSBA presentation.
3. Send the Supplier Diversity Program stakeholder survey link.
4. Share Supplier Diversity data collection profile update instructions.
5. Share FI\$Cal purchase payment history search tool link.
6. Share OSDS update slide.
7. Shared Lee Cunningham materials on DOD procurement practices.

DGS Updates

Angela Shell, Deputy Director, Procurement Division (PD) provided an update and reminders on DGS activity:

1. DGS continues to work on strategic goals for 2023 as part of the 2022-2023 two-year plan.
 - a. Revising the information technology terms and conditions remains a priority though delayed due to staff shortages and resources. The update is still slated for completion by the end of this calendar year. DGS is reaching out to council members in the IT space for feedback on changes already made.

- b. It is anticipated that the budget will be approved and signed by the next fiscal year. DGS' budget looks good with no anticipated cuts.
- c. In anticipation of bringing on additional resources, departments were recently polled on the kinds of support needed related to reaching SB and DVBE participation goals. The results show they need:
 - i. Support with outreach events
 - ii. Statewide procurement dashboards support
 - iii. Advocacy role support and training
- d. Teams are focused on an immense workload to complete activities and projects prior to end of the fiscal year, particularly around procurement efforts.
- e. DGS continues its efforts to revamp products and services with human-centered design elements, focusing on the DGS and PD websites. Part of this is an effort to identify ways to enhance communication protocols and methods to improve delivery of our processes with a human-centered design. An RFI was posted on Cal eProcure to obtain input from individuals or industries on how to approach structuring a procurement with human-centered design elements and the associated cost. The deadline was June 9. The RFI is also linked in the DGS newsletter "The Guide," a summary of department news, information and updates. [Recommend subscribing.](#)

No Member Questions or Comments

Legislative Update (bills may have changed status since June 7)

Matt Bender, Deputy Director of the DGS Office of Legislative Affairs, provided the following legislative updates:

1. [Assembly Bill 258 \(Reyes\)](#) – the author intends to create a single portal combining access to contracts for small businesses with access to grants and technical assistance. DGS is required to create a directory of state certified firms to include all certification types and those not granted by DGS. There are current discussions with the author of the bill and sponsors to determine how it can be implemented.
2. [Assembly Bill 696 \(Lowenthal\)](#) – will generally prohibit the state from requiring a wet signature on any contract related document or document related to a grant.
3. [Senate Bill 557 \(Limón\)](#) – concerns the California Prompt Payment Act. It would entitle non-profit organizations regardless of size to the higher prompt payment penalties granted to small businesses. It also extends prompt payment provisions that only currently apply to contracts and a small number of grants. It includes a provision, not limited to non-profits, that limits stopping the 45-day payment clock due to disputes. For any disputes less than \$250 and less than 5% of invoiced amounts, the prompt payment clock does not stop.

Member Questions or Comments

Member: Who is the sponsor of AB 258?

Reply: The bill is sponsored by the Hispanic Chambers of Commerce and the California Asian Chamber of Commerce.

CalVet Update

Jamie Jones, Deputy Secretary, Veteran Services for CalVet, provided the following updates:

1. Governor Newsom appointed Lindsey Sin as the Secretary of CalVet. Sin brings extensive experience to the role as a Navy veteran and serving as the Deputy Secretary of Communications and Deputy Secretary for Women's Veterans for the last 12 years at CalVet. She is the first woman to serve as Secretary of CalVet since 1975.
2. CalVet recently presented six veterans and their families with keys to new homes through their Home Loan program. The program, which includes wrap-around services, is effective in helping veterans reach their goal of home ownership.
3. Veterans Housing and Homelessness Prevention Program (VHHP) – the second round went out May 18, making \$62 million available to build affordable housing for veterans and their families This funding was made available by a bond authority established in Proposition 61 in 2014. VHHP has a 5% DVBE goal. Applications are due on July 12. In-person application workshops will be held in Los Angeles on June 14 and 15 in Oakland. A virtual statewide application workshop was to be held on June 19.
4. CalVet sponsored the GI Film Festival held in May in San Diego. Nearly all 31 films featured were made by, starred, or featured veterans. The timing of the event was significant as May is Mental Health Awareness Month. Many of the films addressed PTSD, suicide awareness and other issues important to veteran communities and CalVet. Sponsoring the festival aligns with CalVet's outreach efforts planned over the next five years that is supported by veteran suicide prevention funding.

Member Questions or Comments

Member: Are there updates from the DVBE Advisory Council meeting?

Reply: Nothing to report.

Governor's Office of Business and Economic Development (GO-Biz)/CalOSBA Update

Chris Earl, Assistant Deputy Director & Southern California Regional Advisor, California Office of the Small Business Advocate (CalOSBA), provided the following updates:

1. [Small Business and Nonprofit COVID-19 Supplemental Paid Sick Leave Relief Grant](#) – A \$250 million program aimed at providing reimbursement to small businesses with between 26-49 employees that incurred COVID-19 supplemental sick leave costs in the 2022 calendar year (AB 152).
 - a. The website for grant program guidelines and application is now live and accessible via <https://caspsl.com/>
 - b. Grants are up to \$50,000.
2. [Small Agricultural Business Drought Relief Grant](#) – An allocation of \$75 million in small business grants to assist qualified small agricultural businesses affected by severe drought. The program has a regional priority for the Sacramento and San Joaquin Valley areas which are identified as extremely effected by the drought. A procurement for a third party fiscal agent to deliver the drought relief grants is planned for release soon.
3. [Accelerate CA Inclusive Innovation Hubs \(iHubs²\)](#)

- a. Completed the closed round one for existing innovation hubs. Seven grant awardees were selected to receive \$1M in funds over four years to continue efforts in building regional innovation hubs.
 - b. There will be open rounds to include six new regions in the program. All partners of different types may apply. Three regions specified within the six are the Bay Area, Orange County and Inland Empire. The RFP will be released in approximately 30 days.
4. [Technical Assistance Expansion Program \(TAP\)](#) (formerly TAPE)
- a. This program was made permanent in the 2022 budget with the passage of AB193. The program is entering year two which means CalOSBA will have open rounds of RFPs for new providers to join the 102 existing technical assistance providers.
5. Sign up for the Cal OSBA newsletter for timely updates and information here: <https://calosba.ca.gov/newsroom/>

Members' Questions and Comments:

Member: Are there opportunities to have Chris Earl participate in events in Southern California?

Reply: Yes, share proposed event dates for Chris to attend [via email](#) In addition the technical assistance providers do host events in which DGS participants.

Commercial Useful Function Training

Carl Josephson, Staff Services Manager I, Department of General Services, provided the following training presentation:

Performing Commercial Useful Function (CUF) is a critical requirement for all California certified SBs and DVBEs firms that do business with the state. Carl provided an overview of the state Commercial Useful Function. The PowerPoint presentation is included with these minutes.

Members' Questions and Comments:

Member: In drafting CUF regulations, it was interpreted that government administrators did not consider feedback from contractors at the time, specifically from the trucking sector. Will the CUF regulations ever be changed?

Reply: It depends on what the industry dictates at any given time. The laws and regulations are set forth and provide a description. If there are changes within the industry, e.g., from dirt suppliers to then truckers becoming the dirt suppliers, the state does not have any say in industry related changes.

Member: Presentation provided clarification and information was clearly stated. Additional comments reserved for the CUF committee agenda section.

Member: To clarify, this is the agency perspective of CUF and not the interpretation from a vendor/supplier. The five CUF requirements are not mutually applied to three separate business types: supplier, contractor and professional services provider. It requires a depth of knowledge of the different business types to understand how CUF applies to each. I would like us to look at the CUF requirements and how they are applied to each of the three separate business types.

Reply: Whether it is a supplier, contractor or service provider, the buyer must look at what is actually being performed and how CUF applies in each given situation because it may be different.

Member: Could you clarify the terms in #4 that specifies “payment is necessary if applicable.”

Reply: With respect to “if applicable” that refers to installation and not payment, A supplier may not perform installation, but another company may install what the supplier procured. Payment is applicable to the procurement of the materials but not necessarily the installation. The supplier has the receipt of payment from whom the materials were purchased. This establishes a chain of custody for what goes through a business.

Member: To my knowledge as a state supplier, I do not have to maintain an inventory. I do not have to maintain equipment. I only have to negotiate the price and make sure it is delivered.

Reply: State law does not require suppliers to possess physical inventory. The state law does not state explicitly an inventory requirement. Generally speaking, procurement laws must be explicit; it has to state it is applicable. So, in this case, state law doesn’t state explicitly the requirement to carry inventory; therefore, it is not applicable.

Member: CUF has changed, specifically the requirement 10-12 years ago to carry inventory. The current industry standard for most suppliers is to drop ship, but the business is required to pay for the materials. A supplier cannot receive a stipend or margin payment and have the state pay the manufacturer direct – that is a CUF violation. Caltrans can view CUF differently than the state.

Reply: Caltrans applies different federal CUF requirements under the federal disadvantaged business enterprise (DBE) program that are not the same as the state SB/DVBE program. Caltrans must apply state CUF requirements to SB/DVBE programs as required by all state agencies and departments. If a DBE certified small business works on a Caltrans project with federal funding and DBE program goals, the small business should know those specific DBE federal CUF requirements. There is an inventory requirement to become DBE- certified by Caltrans.

Procurement Update

Stephanne Lim, Information Technology Manager I, Procurement Division, Department of General Services, provided the following updates:

There are several Leveraged Procurement Agreements (LPA) that are upcoming.

Commodities Statewide Agreements

1. In development
 - a. Enterprise technologies
 - b. Sheets and Pillow Cases
 - c. Electric Vehicle Supply Equipment (EVSE)
2. Current
 - a. Emergency Sleeping Cabins ([Event ID 0000027281](#)) bid proposal due date 6/16/23.

Consumable Statewide Agreements

1. In development
 - a. Salt, Water Softener
 - b. Soup Base
 - c. Bread
 - d. Frozen Vegetables
 - e. Cheese
 - f. Condiments
 - g. Pasta
 - h. Grill Oil
 - i. Dried Legumes
2. Current
 - a. Flour ([Event ID 0000027514](#)) bid proposal due date 6/16/23.

Master Service Agreements

1. In development
 - a. Uniform Laundry Services
 - b. Temporary Healthcare Services
2. Current
 - a. Office Moving Services ([Event ID 5239941](#)) bid proposal due date 6/23/23.

Find the latest upcoming solicitations [here](#).

Leveraged Procurement Agreements are different than state department solicitations. Solicitations, when advertised, are posted in the California State Contracts Register, located on Cal eProcure. Departments may also post their solicitations, including a forecast of upcoming solicitations on their department website. DGS posts their upcoming solicitations on the [How to do Business with the state of California](#) page under Upcoming Contract Opportunities.

No Member Questions and Comments

OSDS Program Updates

Teresa Macias-Ruiz, Business Outreach Liaison, Department of General Services, provided the following updates:

1. Certification Updates
 - a. As of 6/3/2023 the certification database included: 21,364 SBs (including duals/triples) of which 15,095 Micros, 3,815 SB-PWs and 1,838 DVBEs (including duals/triples).
 - b. The [California Consolidated Annual Report \(CAR\)](#) was finalized and shows the state exceeded its DVBE participation goal, attaining 4.82% and awarding \$646 million to DVBE firms. The state narrowly missed its SB goal, reaching 24.82% for a total of \$3.3 billion awarded to SBs. Of these dollars, \$1.5 billion went to SBs and \$1.8 billion went to microbusinesses.
 - c. DGS held a 15-day comment period on the Small Business and DVBE regulations package between May 15 and May 30. There were no substantive comments. The effective date for the regulations is June 29, 2023. To review the approved regulations, visit the [Notice of Rulemaking Regulations for SB/DVBE](#) webpage.

- d. New Certification Program Manager, Matt Victorian, joined OSDS on May 15. Matt came from Caltrans where he worked on the DBE, SB and DVBE programs. A Marine Corp and U.S. Army National Guard veteran, Matt has managed multi-state businesses in the private sector and was recognized by the White House with the Champion of Change award for his own small business focused on empowering, employing and advocating for veterans.
2. SB/DVBE Training Unit
 - a. The training unit would like council members' feedback on the "How to Do Business with the State" training module. The SBAC pilot session is scheduled for later this year. Members will receive a "save the date" invitation once dates are finalized.
 - b. Currently, there is an internal review of the CUF training pilot session.
 3. Advocacy Support Unit
 - a. This unit helps state departments meet their mandated SB and DVBE contracting goals.
 - b. Currently developing a "Best Practices" webinar for state departments.
 - c. Implementing an online "Improvement Plan" portal and an online advocate directory.
 - d. Deficiency notifications were sent to departments that did not submit an improvement plan and agency visits are being scheduled for departments that did not meet participation goals.
 4. Outreach updates – in the last three months there were 68 outreach events in total: 31 in-person and 37 virtual events in collaboration with over 44 organizations.
 - a. A partial list of organizations includes the California American Indian Chamber of Commerce, Regional Hispanic Chambers of Commerce, Greater Sacramento NAACP, El Clasificado, California and Sacramento Black Chambers of Commerce, National Veterans Transition Services and Nor-Cal Elite Disabled Veterans Network.
 - b. Upcoming events highlights of 41 events scheduled in the next three months:
 - i. Founders Day 2023 and GGBA Power Connect – LGBTQ organizations.
 - ii. American Indian Chamber Expo '23.
 - iii. 44th Annual California Hispanic Chambers of Commerce Statewide Convention.
 - iv. Procurement Summits with SDBC's.
 - v. Three-part webinar series for veteran, minority and women owned businesses.
 - c. See the full list of upcoming events on the event calendar webpage: <https://www.dgs.ca.gov/PD/Events>

Members' Questions and Comments

Member: What is the percentage of certified firms getting contracts to work with the state?

Reply: DGS is working with FI\$Cal to obtain a better understanding of those numbers. The challenge is that while the FI\$Cal numbers are fairly accurate not all departments transact in FI\$Cal. Those departments need to manually update their numbers. Departments that are not currently in FI\$Cal tend to be larger departments such as Caltrans, Water Resource Board, and CDCR. We need to find a way to reconcile those numbers.

[DGS Procurement Data Dashboards](#) are a source of information to learn the types of firms getting awarded contracts, whether those firms are certified, the kinds of purchases, methods of purchasing, purchases by department, etc. Departments are told to use the Dashboards as one resource tool when implementing AB 1574, which requires state departments to vary their

outreach in the solicitation process to include certified businesses that have not done business with a department or the state at all.

SBAC Committee Updates

Procurement Processes Committee

Jai Sharma spoke on behalf of committee chair Charlotta Carter to present the committee report:

1. Committee summary of key strategic priorities for 2023.
 - a. The passing of AB 1574 is a significant win for small businesses. The council needs to establish logistical strategies to move this forward. Additionally, the council should evaluate the development of a strategic three-year plan to assess the effectiveness of AB 1574.
 - b. Prompt Payment: evaluate FI\$Cal communication strategies, incentives or penalties, and what the federal government may be doing to determine approaches that could make prompt payment more effective.
 - c. How to simplify larger solicitation submissions – create a centralized portal for businesses to submit their bid materials. This would simplify the bid submission process for businesses and reduce the need to repetitively submit the same documents for each procurement.
 - d. Charlotta is working with Chris Earl on Non-Profit Factoring options to help with slow payments.
 - e. Prioritizing the list of 13 items:
 - i. Priorities achievable this year: identifying best practices to improve procurement forecasting and communicating those to SBs and DVBES, and empower procurement officials to select small businesses from bids.
 - ii. Second tier priorities that still need additional efforts are: achieve timely prompt payment and implement defined prompt payment rules.
 - iii. Third tier priorities are those items on the list that can be combined into the overall goals of simplifying the procurement process.

Members' Questions and Comments

Member: The Outreach, Marketing, Education and Training committee noted that some items are relevant and consistent between the two committees. Specifically, the Outreach committee supports the proposed goal of having a centralized portal for businesses to upload their bid documents.

Outreach, Marketing, Education, and Training Committee

Committee co-chair Merv Cutler presented the committee report:

1. 4 out of 9 goals set at June 2022 meeting are complete.
2. Priority goals that remain open are:
 - a. Increase hands-on procurement technical training offered to businesses. Recommend a dual approach which can either 1) provide the resources and tools for SBs/DVBES to self-navigate or 2) take firms through the resources and tools together.
 - b. Create an incubator program on learning how to do business with the state to empower more small businesses to pursue state contracts. There is a clear need for this. It will

- create a broader supplier base for state procurements, though one challenge is that agencies that find success with a business may be reluctant to use a different business.
- c. Develop a centralized database to streamline document requests when businesses respond to solicitations. Departments often require the same documents in bid submissions and a centralized portal would simplify this process.
 - d. Create outreach events for specific industries that would provide advanced notice of what the state plans to buy. This could be resolved, as the state may already be doing this. The committee will review this at their next meeting.

Members' Questions and Comments

Member: Is the emphasis of proposed training sessions on helping businesses with certification or on how to do business with the state?

Reply: The sessions could emphasize both. OSDS currently offers certification workshops. The need is there and could offer more of this type of training.

The members discussed the challenge businesses face in retaining all the information in OSDS workshops and webinars, and the need for more personalized training.

The OSDS SB/DVBE Training Unit plans to address this need in more detail than currently provided along with new training content.

Commercially Useful Function (CUF) Committee

Committee chair Shaila Rao Mistry presented the committee report:

1. The committee set a goal to review CUF language, how CUF is applied, the implementation process and CUF enforcement. In a recent meeting with DGS the committee learned more about CUF enforcement including violations, use of a CUF form, the role of buyers in determining CUF, and more.
2. The committee noted several challenges to the process:
 - a. How buyers determine if a business must perform CUF.
 - b. How businesses correctly identify situations where CUF is not needed.
 - c. The means of quantifying CUF violations.
 - d. Testing CUF awareness among the small business community and non-certified prime contractors.
3. The committee continues to explore many questions, formed around two clusters.
 - a. The process for rejecting businesses for CUF non-compliance.
 - i. What is the process to challenge CUF non-compliance?
 - ii. How are criteria on industry standards noted and made part of the process?
 - iii. Are there reviews of CUF rejected bids?
 - b. CUF enforcement
 - i. How are pass-throughs detected?
 - ii. What is the audit process?
4. The committee concluded CUF centers on four key issues: enforcement, measurement, auditing, and business awareness.
5. The committee is exploring many solutions to these issues:
 - a. The CUF form needs greater external assessment on the effectiveness of how CUF utilization is measured.

- b. Review CUF language for definitions and variations in interpretations among state buyers.
 - c. Analyzing CUF related data at various phases of the procurement process.
 - d. Conduct audits of CUF compliance when contracts are completed.
 - e. Train buyers on CUF assessment and determinations.
 - f. Measurement of CUF violation – requires mining and audit of the system and use of embedded AI in our website to audit and measure.
 - g. Third party enforcement – best practice and can help protect small businesses.
 - h. Legislative action for third party enforcement and CUF language interpretation.
6. The committee's next steps are to look at how to use existing legislation or write new legislation to strengthen CUF and look at third party options to enforce CUF compliance.

No Members Questions and Comments

Review of New Action Items:

Matt Zweier, OSDS Business Outreach Manager, Department of General Services, presented the action items.

- 1) Mike Sabellico will connect Merv Cutler with Danny Fitzgerald at the San Diego SBDC.
- 2) Provide council members with the link for Notice of Rulemaking Regulations for SB/DVBE.
- 3) Provide council members with OSDS presentation.

Public Comment:

Peter Carruth: Mr. Carruth spoke about the formal protest process and that small business protests have been wrongfully denied. A state department told him protests are not permitted for SB/DVBE Option procurements; however, he has not been given or found anything establishing that prohibition. He is concerned laws are being broken and CUF violations are happening without response. He would like, at another time, DGS to respond to his comments.

Adjournment:

- 1) The next meeting is scheduled for September 6, 2023, and will be located at Southwestern Community College in San Diego hosted by Mike Sabellico.
- 2) A motion to adjourn was made by Merv Cutler and seconded by James Simonelli.
- 3) The meeting was adjourned at 3:02 p.m.