



**REPORT OF THE
GOVERNOR'S ADVISORY COUNCIL
ON DIVERSITY, INCLUSION
AND SMALL BUSINESS
OPPORTUNITIES**

**JANUARY
2017**

Report of the Governor’s Advisory Council on Diversity, Inclusion and Small Business Opportunities

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Background

On September 23, 2015, Governor Wolf signed Executive Order 2015-11, Diversity, Inclusion and Small Business Opportunities in Commonwealth Procurement and in Pennsylvania's Economy (the "Executive Order"). This Executive Order established the Governor's Advisory Council on Diversity, Inclusion and Small Business Opportunities (the "Advisory Council"), with a primary purpose to "...advise the Governor's Office and executive agencies under the Governor's jurisdiction on ways to improve state contracting and grant opportunities; job creation initiatives; financing and bonding programs; business assistance and professional development programs." Governor Wolf charged the Advisory Council with helping the Commonwealth define and implement transformational changes for the benefit of Small Businesses (SBs) and Small Diverse Businesses (SDBs) across Pennsylvania.

At its inaugural meeting on September 24, 2015, the Advisory Council examined the performance over the last several years of state programs designed to promote diversity, inclusion and small business opportunities in state contracting. Secretary of General Services Curt Topper delivered an in-depth presentation based on available data demonstrating that SB and SDB participation in Commonwealth contracts had been declining since 2010.

In response, the Advisory Council has spent its initial year working with the Department of General Services (i) to implement program and policy changes to begin to reverse the decline and increase direct Commonwealth expenditures with SBs and SDBs, and (ii) to develop a series of recommendations that will provide the foundation for the transformational changes Governor Wolf has established as a priority for his administration. This report sets forth several positive steps that the executive agencies with the support of the Advisory Council have already taken to reverse the trend, as well as specific recommendations from the Advisory Council to Governor Wolf for further action by the Commonwealth.

While focused throughout the year on state spending, the Advisory Council has also consistently encouraged the Commonwealth to adopt a broad economic development goal with respect to job creation and diversity and inclusion – to grow Pennsylvania SBs and SDBs to competitive scale; enable them to create financial security for their owners and positively impact the quality of life and financial security for their employees and the communities where they are headquartered and their employees live; and create 21st century living wage jobs that grow the state's economy and tax base.

The Advisory Council and Subcommittees

The Advisory Council is comprised of seventeen (17) members, and is co-chaired by the Secretaries of General Services, Community and Economic Development, Transportation, and Labor and Industry. The Advisory Council's other thirteen (13)

members are members of the community representing small, minority, women, Lesbian, Gay, Bi-sexual, and Transgender (LGBT), disabled, veteran, and service-disabled-veteran small business owners, as well as commonwealth staff and other key stakeholders.

To proceed with its work, and to create additional opportunities for interested members of the community to be involved, the Advisory Council identified three priority areas of focus and formed subcommittees to examine each in detail.

Subcommittee Structure:

- 1) **Inclusion and certification** – to investigate and find potential solutions for current impediments to small and small diverse business participation in Commonwealth contracts.
- 2) **Program goals and metrics** – to respond to Governor Wolf's challenge to develop a more comprehensive, integrated and data-driven approach for Commonwealth programs designed to help small businesses and small diverse businesses succeed.
- 3) **Training and workforce development** – to explore alternative strategies for helping small and small diverse businesses in Pennsylvania grow more competitive by improving the skills of their owners, their employees and members of the communities from which they recruit and hire.

Each subcommittee includes additional stakeholders from the private sector, non-profit organizations, labor and governmental agencies. Subcommittee members represent a cross-section of SB and SDB entities, including minority, LGBT, disabled, women, veteran and service-disabled-veteran owned small businesses. The subcommittee members also represent various organizations that provide meaningful employment and business opportunities for persons with disabilities.

Each subcommittee was tasked with identifying formal recommendations for the Governor in their designated focus areas. Subcommittee members convened on multiple occasions between April 5, 2016 and November 16, 2016. They worked with Commonwealth staff to assemble available data on current programs in Pennsylvania and best practices from other states.

At the Advisory Council meeting on September 7, 2016, each subcommittee chairperson presented their subcommittee's recommendations to the full Advisory Council. During that meeting and during subsequent Advisory Council and subcommittee meetings and discussions with Commonwealth leadership, the recommendations set forth below were finalized and divided into two categories for the purpose of the present report:

Formal Recommendations – Current recommendations approved by the full Advisory Council based on its first year of work, and

Working Concepts – Potential recommendations that the Advisory Council and subcommittee members will continue to research and develop as part of their ongoing work with the administration.

The Advisory Council is providing this report to Governor Wolf in partial fulfillment of its responsibilities as set forth in the Executive Order. The recommendations represent vital first steps that the Advisory Council believes the Commonwealth should take to achieve substantial and measurable progress towards its diversity and inclusion goals.

Just as it has done throughout the year, the Advisory Council will work closely with executive agency leaders to implement the recommendations adopted by the Governor, monitor program progress and provide substantive input. The Advisory Council and subcommittee members will continue our work on items identified as working concepts in this report and intends to make additional formal recommendations in the future as it monitors the Commonwealth's progress.

Progress in 2015/16

During the last year, the Advisory Council has played an active role advocating for positive organizational, policy and program changes that have been implemented by the Commonwealth or are in the process of being implemented. These include the following accomplishments:

- **Issued a Request for Proposals (RFP) for a Disparity Study.** On December 30, 2016, the Department of General Services (DGS) issued an RFP for a statewide disparity study. The Commonwealth will use the findings of the disparity study to assess the existence, extent, and impact of discrimination against SDBs in Commonwealth contracting and to support DGS's Diversity, Inclusion and Small Business Opportunities (DISBO) Program changes to increase contracting opportunities for SDBs. Proposals are due February 13, 2017.
- **Established a rigorous, empirically valid metric for SB and SDB participation in state contracting, based on payments.** Prior to 2016, DGS did not report on SB participation, and its approach to reporting SDB participation was based solely on financial commitments made to SDBs in a fiscal year as a percentage of the value of state contracts awarded using RFPs during the corresponding fiscal year. Since RFPs represent just a small fraction of all state contracts and state spending, the old approach tended to overstate SDB participation levels. Working with the Advisory Council, DGS adopted a new, more accurate and straightforward approach, based on payments to SBs and SDBs within a fiscal year as a percentage of all state spending for goods and services in that fiscal year.
- **Inclusion of LGBT and disabled business owners.** In accordance with the Executive Order the DISBO program began accepting credentials from certification organizations for LGBT and Disabled Business Owners as of July 1, 2016.

- **Inclusion of self-certified small businesses in the Commonwealth's RFP process.** For the first time ever, prime contractors who respond to Commonwealth requests for proposals can now earn RFP evaluation points for subcontracting with SBs in addition to the evaluation points they receive for subcontracting with SDBs.
- **Improved DISBO scoring model.** Beginning in 2016, DGS implemented a new RFP scoring methodology that increases the competitive importance of SB and SDB participation in the review of RFP responses. The new model is simpler and easier for competing suppliers to understand and follow. Importantly, it also ensures that the RFP respondents who make the most substantive commitments to SBs and SDBs in their proposals will receive full credit, up to 20% of the total available points for RFP evaluations. The new model makes SB and SDB participation in RFP competitions a more important factor in determining winning bids.
- **Subcontracting requirement and model subcontract language.** Working with the Advisory Council, DGS has developed and implemented (i) a new protocol for prime contractor respondents to certify as part of their RFP response the subcontractors to be used on the project, the work to be performed and the compensation to be received and (ii) new standard contract terms and conditions which have been applied to new RFP-based contracts since July 1, 2016. The new terms require that winning prime contractors must submit signed subcontracts with their SB and SDB partners within 30 days after the prime contract's award. SB and SDB subcontracts must incorporate the work descriptions and compensation set forth in the certifications and all other terms and conditions can be no less favorable than those offered by the Commonwealth to prime contractors. The Commonwealth also now provides recommended subcontract language as an integral part of the RFP process.
- **SB/SDB Participation in commercial leases.** DGS is expanding the DISBO program to include transactions within its portfolio of leased properties (over 7 million square feet) in Pennsylvania. When DGS solicits for new space potential landlords' status as SBs or SDBs and/or their financial commitments to SBs and SDBs will be considered as part of the best value award.
- **Greater inclusion in Commonwealth construction contracts.** In August of 2016, DGS implemented a new job order contracting (JOC) system using a best-value, multiple-award request for proposals process. The new JOC system is intended for all Commonwealth construction jobs with a value less than \$300,000 (worth approx. \$20 million annually). By using an RFP, DGS achieved DISBO commitments more than two times larger than typically achieved in construction contracts.
- **New DCED program to provide greater access to working capital.** In July 2016, the Pennsylvania Department of Community and Economic Development (DCED) introduced the Small Diverse Business Capital Access Program, administered by the Pennsylvania Industrial Development Authority, which provides low-interest loans of up to \$200,000 and lines of credit of up to \$100,000 to SDBs that commit to creating and retaining full-time jobs within the Commonwealth.

- **Competitive Procurement of Legal Services.** On January 20, 2015, Governor Wolf issued Executive Order 2015-02, calling for the competitive procurement of legal services. Since that time, numerous RFPs have been issued for outside legal services and all of them have included within the evaluation criteria 20% of the available points for SDBs as prime vendors as well as for SDB subcontractors in professional or para-professional capacities. The Commonwealth has seen legal service commitment to SDB law firms increase from a historical 0% per engagement, to 5%-40% per engagement for the vast majority of awarded contracts. Additionally, through this procurement process the Commonwealth has seen three SDB law firms, as well as three additional SB law firms, be awarded engagements as a prime contractor. Finally, DGS has seen the number of firms providing legal services that were certified and verified as an SB or SDB increase from less than 5 total to 37 and 51, respectively.

Recommendations

1. The Commonwealth should conduct a disparity study to provide an empirical basis for the SDB contracting program.

The Commonwealth should conduct a formal disparity study to collect demographic information and provide an empirical data analysis to support continued expansion of the Commonwealth's SDB program.

This recommendation should be implemented with a sense of urgency. We recommend that DGS secure the necessary funding and select a qualified consultant to complete the study before the end of 2017. The disparity study should assess the full extent of the disparity between the availability of SDBs and their utilization in state spending. The results will provide an empirical basis for strategic improvements to the SDB program and allow the Commonwealth to set more precise, legally defensible participation goals. The selected consultant should be required to present conclusions based on the data in a clear, easy to understand format, suitable for public presentation.

The Advisory Council further recommends that a working group of Advisory Council and subcommittee members provide guidance during the performance of the disparity study and that the Advisory Council and subcommittee members receive updates from the selected vendor during the course of the study. The disparity study is an important step toward expanding the SDB program and making it more effective in Pennsylvania. However, the Commonwealth should not wait until after its completion to implement significant program changes that it believes will make a difference without jeopardizing the program's legal status.

2. The Commonwealth should work to achieve a 10% SDB participation rate in FY 17, a 20% SDB participation rate in FY18 and a 30% participation rate by SDBs in FY19 and beyond.

The Advisory Council recognizes that with participation of just 5.27% for SDBs in FY16, these are stretch goals. However, the Advisory Council also notes that there will be increased use of the RFP process by the Commonwealth for procurement, as new streamlined procedures are implemented in 2017. Given the higher rates of participation that the Commonwealth typically achieves in best value procurements, the new RFP procedures in combination with prior improvements to the scoring methodology and subcontractor participation should have a significant short and long term impact on overall SDB participation levels.

Notwithstanding the overall challenge, the Advisory Council recommends these goals be set and communicated to all executive agencies to create an administration environment committed to maximum participation opportunities for SDBs across the Commonwealth. Advisory Council members stressed that setting stretch goals is necessary to establish the Commonwealth as a leader in the marketplace. The Commonwealth should be an example for the private sector to follow. Doing business with SDBs in Pennsylvania is vital to Pennsylvania's job growth, economic development, and can be an important component of state initiatives to confront poverty. As Pennsylvania SDBs win business and build capacity, they recruit, hire and spend in challenged communities where it is critically needed throughout the Commonwealth.

3. The Commonwealth should allow for greater flexibility with respect to size limitations for participating SB and SDB firms.

Under current law, there are two key size limitations with respect to certification for SBs and SDBs, their annual revenues and the number of their employees. DGS currently has the authority and is prepared to exercise its discretion strategically to set the annual revenue limits, but the current 100 employee limit is determined by statute.

The relative disadvantages faced by SBs and SDBs in the marketplace can vary significantly by market sector. The Commonwealth's DISBO program should have the ability to take such variance into account in the program's operation and establishing certification guidelines. Otherwise, relatively successful SBs and SDBs have an incentive to limit their growth, turn down opportunities and avoid hiring for fear that they'll lose certification and other business supports afforded by the program.

4. The Commonwealth should expand the DISBO program to promote SB and SDB participation in all contracts, regardless of the procurement method used to initiate the contract.

Currently, SB and SDB participation are considered, tracked and reported only when supplies and services contracts are awarded using best value methods or when construction contracts are awarded via the sealed bidding method with a commitment to minimum participation levels (MPLs) or best efforts, at the discretion of the bidder. Since the majority of

Commonwealth expenditures are made using other methods (simple sealed bidding primarily, occasional sole source contracts, etc.), the Commonwealth makes most of its current expenditures without any consideration of competing suppliers' SB or SDB status or the inclusion of SBs or SDBs in submitted bids.

DGS is introducing a streamlined RFP process and will work proactively with executive agencies to significantly increase the use of best value methods as a percentage of total procurements. This work should continue, but the Commonwealth should also consider approaching the marketplace in a more comprehensive fashion, as the state of Maryland does. In Maryland, SB and SDB goals are determined for every state procurement and applied regardless of the solicitation method.

5. The Commonwealth should promote greater SB and SDB participation in grants and other "non-procurement" expenditures.

The Advisory Council recommends that the Commonwealth require all county and local governments, colleges and universities, behavioral health, human services, and other non-profit service providers that receive financial support from Executive Agencies to pursue meaningful levels of SB and SDB participation within the expenditure of all state dollars received and have diversity and inclusion programs for their own contracting and employment decisions. The Commonwealth should be committed to leveraging all state discretionary spending to ensure inclusion of SBs and SDBs.

6. The Commonwealth should establish an annual goal for each Executive Agency to increase the number of prime contracts awarded to SB and SDB prime contractors each year.

The Advisory Council recommends that the Commonwealth establish meaningful goals for each Executive Agency to substantially increase the number of meaningful and capacity building prime contracts awarded to SBs and SDBs each year. Steps should be taken to reinvigorate the Commonwealth's Small Business Procurement Initiative wherein executive agencies are required to designate specific categories of procurements for small businesses. The Advisory Council believes that if SBs and SDBs are going to mature into competitive and stable businesses they must have competitive access to sophisticated prime contracts.

7. The Commonwealth should work to improve and expand public and private sector workforce development programs.

The Advisory Council recommends that the Commonwealth develop regional plans to identify best practices to engage workers, employers, schools, unions, communities and local governments to design, fund and implement innovative workforce development programming. These plans should include the development of a marketing campaign targeted at employers and unions to explain the benefits of a diverse workforce, including workers with disabilities. The Commonwealth should also work with employers and unions to establish apprenticeship,

internship opportunities and summer jobs for teens and young adults and high school students from diverse backgrounds, including those with disabilities and reentry candidates.

The Advisory Council recommends that the Commonwealth develop a community outreach plan to work with local private and public sector entities to build awareness of effective educational and apprenticeship programs that serve the local workforce such as those available through Careerlink. Many SBs and SDBs in Pennsylvania lack sufficient resources on their own to ensure that their personnel are appropriately trained and remain competitive in the marketplace. Many are unaware of Commonwealth resources already available to them. The Commonwealth should set measurable and aggressive goals and collect data to determine whether the outreach plans have been effective in increasing the awareness and utilization of these programs.

The Advisory Council also recommends that the Commonwealth provide additional funding for schools that are developing high-priority occupation programs of study such as IT, accounting, engineering, healthcare, and transportation. The Commonwealth should also pursue a statutory change to increase Education Income Tax Credits (EITC) for employers and K-12 institutions that partner to fill the employee skills gap.¹

8. The Commonwealth should develop a more robust system to monitor and report on expenditure data electronically so that program performance and outcomes can be evaluated.

In order to determine whether Commonwealth programs are successful, the Advisory Council believes that data must be continuously monitored, measured, and reported. Although tracking is required by two Executive Orders that impact the DISBO program, Executive Order 2004-6 and Executive Order 2011-9, the Advisory Council does not believe that the current tracking capability is sufficient to fully measure program performance and the real time impact of the current changes being implemented by the Commonwealth. Therefore, the Advisory Council recommends that the Commonwealth implement a new electronic monitoring system to collect, analyze, track, and report data on state expenditures with prime and subcontractors and to allow for easy access to that data for purposes of evaluation and reporting of program performance and outcomes. The electronic monitoring system should allow the Commonwealth to obtain and report SDB and SB spend twice each fiscal year and within 30 days of the end of each fiscal year. Such reports should list SDB and SB spend by agency and include the ability to report on expenditures with each protected class of SDBs.

The Advisory Council recommends that the administration identify appropriate funding to procure and implement the electronic monitoring system or secure such funding during the next Commonwealth budget cycle. The new system should include the capacity to produce an accurate, unified report based on all state spending including expenditures from federal and special funds, including data that does not appear in current DGS reporting.

¹ See, 72 P.S. §§ 8701-F *et seq.*

The system should have the capacity to collect and report on workforce and business owner demographics for all state contracts and subcontracts. It should further enable calculation of "Retained Value" or the amounts retained by the SBs and SDBs and not passed through to second or third tier suppliers.

Payment amounts and payment timeliness should be tracked and compared with contractual commitments and obligations established at the time of award. Payments associated with change orders and contract renewals should also be incorporated into standard reports with specific attention paid to their impact on SB and SDB percentage participation. With the new subcontract terms and conditions introduced in 2016, the Commonwealth should experience improved contract compliance. A new reporting system would help ensure that the new terms are working. The Advisory Council recommends the Commonwealth maintain a zero tolerance policy for prime, SB or SDB contractor behavior that subverts the goals and objectives of the SB/SDB program.

9. The Commonwealth should measure success based on participating firms' relative business growth and stability combined with state spending.

The Advisory Council recommends that in addition to measuring success based on expenditures with participating firms, the Commonwealth should measure the program's impact on participating firms' growth and stability. The Advisory Council recommends that program impact be assessed using outcome-based metrics, including annual changes in retained earnings; revenues; taxes; earnings before interest, taxes and amortization (EBITA); number of full-time equivalent employees (FTE); employee demographics; corporate headquarter locations; SB and SDB failure rates; and other data which can be collected, evaluated and reported using the electronic monitoring system. Metrics such as these would permit the Commonwealth to measure the stability and economic strength of SBs and SDBs and their contributions to the state, local and regional economies.

Developing these metrics should not be deferred until the monitoring system is in place. The Advisory Council notes that part of DCED's mission is to "foster opportunities for businesses to grow and for communities to succeed" in Pennsylvania. With this in mind, the Council recommends that DCED convene a working group with representatives from the Advisory Council and subcommittees to develop a progressive set of metrics within an agreed upon timeframe.

10. The Commonwealth should lead with a greater sense of urgency and do more to advocate for the success of the DISBO program throughout state and local government and in the private sector.

The Advisory Council recommends the Commonwealth take proactive, visible steps to demonstrate its commitment to leading the overall effort statewide to expand the access to

contracting, job opportunities and executive and board leadership for SBs, SDBs and minorities in the public and private sectors. The administration should make diversity and inclusion a recurring topic at cabinet level meetings and should appoint a new senior executive within DGS at least at the Deputy Secretary level. Once hired, the new Deputy Secretary should be charged with leading, developing and promoting the program full time and ensuring that the executive agencies are maximizing their work to achieve the Governor's stated objectives in the Executive Order. The new Deputy Secretary and leaders in the Wolf Administration should meet regularly with and work to persuade independent agencies, state contractors, private sector business leaders, union leaders, local government executive and legislative leaders and chambers of commerce to encourage implementation or expansion of their own diversity and inclusion programs and create expanded opportunities for diverse workforces and executive and board leadership. Working with and through agencies such as the Pennsylvania Departments of State, Community and Economic Development, Health, Labor and Industry, and the General Assembly, the Deputy Secretary should work to ensure that diversity and inclusion requirements are part of the state's competitive process for the award of state licenses, Redevelopment Assistance Capital Program (RACP) funding, economic development incentives, grants, and other discretionary state funding and to encourage the recipients of that funding to adopt or strengthen their existing diversity and inclusion programs.

DGS should further expand outreach programs by scheduling and promoting more SB and SDB substantive and relationship building workshops throughout the Commonwealth, and by encouraging individual agencies to do agency-specific SB and SDB workshops. In addition, the Commonwealth should work to re-energize supplier diversity programs by encouraging suppliers to model organizations with successful supplier diversity programs.

Finally, the Commonwealth should establish a formal mentor/protégé program as called for in the Executive Order by September 30, 2017. The Advisory Council urges the Wolf Administration to build on recent accomplishments and to accelerate the pace of transformation. Upon the adoption of any of these recommendations, the executive agencies should be directed to establish aggressive, clearly defined action plans with committed timetables so that progress can be measured and the course can be adjusted when necessary.

Appendix A. Working Concepts

The Advisory Council and subcommittees have considered a broad range of different challenges facing SBs and SDBs in Pennsylvania and have discussed many potential solutions over the past 15 months. Given the complexity of current programs, the myriad legal and policy considerations, and the severe budget constraints facing Commonwealth executive agencies, we did not reach a sufficient consensus on several potential recommendations.

Below is a brief description of key findings and ideas that the Advisory Council intends to continue developing with its subcommittees, as our work with the executive agencies continues:

1. **In-state preferences** – There is a strong belief among several Advisory Council and subcommittee members that the Commonwealth should maintain a preference for doing business with Pennsylvania based SBs and SDBs over those from other states. Participation in the Commonwealth's current SB and SDB programs is not limited solely to Pennsylvania firms.

Generally, the Commonwealth has long resisted creation of in-state preferences, based upon the belief that reciprocity statutes potentially harm Pennsylvania firms seeking to do business with other state governments. The Advisory Council intends to investigate this matter in greater detail.

2. **Separate goals and programs** – Another proposed recommendation was to implement specific goals or separate SDB programs for each protected class within the SDB population. Separate goals and/or protected class programs would address independently racial discrimination, sexual orientation discrimination, gender bias, and discrimination due to physical or mental disabilities and would prevent discrimination based upon prime contractor class preferences.

The Advisory Council intends to continue investigating programs in other states and to assess whether the Commonwealth's current program design, which includes all protected classes of SDBs in one participant pool, is fair and effective. Further work on this topic will also be informed by the recommended disparity study.

3. **Simplifying eligibility processes for SDBs** – The Commonwealth's current approach – with DGS verifying certifications issued by five different independent certifying organizations, and with PennDOT conducting its own separate UCP certification process for its programs – confuses applicants, contributes to processing backlogs and unnecessarily limits participation.

The Advisory Council believes the process should be made less cumbersome and costly for SDBs and several council and subcommittee members have questioned whether the Commonwealth should return to the practice of performing certifications directly.

Given the divergence of views on the topic, further study and discussion is necessary to determine a recommended course of action. The Advisory Council and subcommittee members will continue to investigate alternative approaches and provide a recommendation.

4. **Compliance and prompt payment for SB and SDB subcontractors** – Notwithstanding recently implemented changes to the Commonwealth's contracts, including specific subcontracting requirements, several Advisory Council members remain concerned that additional changes are needed.

New contract terms such as liquidated damages equivalent to original prime contractor commitments, and more aggressive payment terms for subcontractors will be topics for further discussion by the Advisory Council.

5. **Inclusion of non-disabled veteran business owners in the DISBO population** – Pennsylvania state law establishes a statewide annual participation goal of not less than 3% in state contracting by veteran-owned small businesses, including service-disabled veteran-owned small businesses.¹ Although there are no equivalent statutory participation goals for other classes of SBs or SDBs, DGS currently administers this statutory requirement as part of the DISBO program.

Since veteran-owned businesses represent only a small fraction of all businesses in the DISBO database and many veteran business owners evidently do not view themselves as historically disadvantaged or subject to discrimination, the Advisory Council may explore the question of whether the veterans program ought to be administered separately.

6. **Changing the nomenclature and structure of the DISBO program to reduce confusion, or to match federal small business programs, including tiered set-asides** – Some members of the Advisory Council expressed concern that the differences between the DISBO program and the federal programs, and particularly the different nomenclatures used by the two programs, cause confusion and serve as a barrier to both inclusion and certification. The Advisory Council intends to review whether aligning the DISBO program structure and nomenclature with the federal DBE program would make the DISBO program more user-friendly. In addition, the Advisory Council is considering whether issuing some competitive procurements under a tiered set-aside structure where procurements are available only to designated tiers of businesses (for example, certain procurement tiers would only be available to SDB prime contractors, with higher procurement tiers encompassing additional categories of prime contractors up to and including large non-diverse businesses) would further the goals of the DISBO program.
7. **Unbundling state contracts to create prime contracting opportunities for SB and SDB primes** - The Advisory Council intends to explore whether major upcoming and annual

¹ 51 Pa.C.S. § 9603.

recurring contracts can be unbundled and competed in RFP, low bid or sheltered market competitions that allow SBs and SDBs a greater opportunity to compete for and win prime contracts.

Under severe fiscal constraints, the Commonwealth has adopted aggressive savings goals for procurement and contracting in key expenditure categories. One strategy the Commonwealth has deployed recently is to aggregate expenditure volumes to increase leverage, improve standardization and drive down cost. The Advisory Council intends to examine this strategy's impact on SB and SDB opportunities.

Appendix B. Advisory Council and Subcommittee Members

**Members of the Governor's Advisory Council on
Diversity, Inclusion and Small Business Opportunities**

Joel Acie, MWDBE Projects Manager, University of Pittsburgh Medical Center

Steven Bradley, Chairman, Philadelphia African American Chamber of Commerce

George R. Burrell, Senior Executive Vice President/COO, Universal Companies

Carl Cooper, Owner, Diversity Consulting

Dennis Davin, Secretary of Community and Economic Development

Jenine Diaz, President, Diaz Data Services, LLC

Janet Fiore, CEO, The Sierra Group

Chris Hale, Chairman & Co Founder, Victory Media & President, NaVOBA

Rahim Islam, President/CEO, Universal Companies

Kathy Manderino, Secretary of Labor and Industry

Ted Martin, Executive Director, Equality Pennsylvania

Tyrone Miller, President, Access Personnel Services, Inc.

Jennifer Oswald, Vice President/General Manager, Momentum, Inc.

Michael Rashid, Former CEP (retired Feb. 2014), AmeriHealth Caritas

Leslie Richards, Secretary of Transportation

Robert (Bobby) Simpson, CEO, Crispus Attucks Association

Curtis Topper, Secretary of General Services

Subcommittee on Inclusion, Certification and Diversity

Subcommittee Chair – Jennifer Oswald, Vice President/General Manager, Momentum, Inc.

Ruth Byrd-Smith, Director, County of Allegheny, Department of Minority, Women and
Disadvantaged Business

Valarie Cofield, President & CEO, Eastern Minority Supplier Development Council

Julie Copeland, CEO, Arbill

Amy Criss, Director of WBE, 84 Lumber

Jenine Diaz, President, Diaz Data Services, LLC

V. Diane Freeman, Chairman & CEO, Ferguson Manning Associates, LLC (FMA)

Chris Hale, Chairman & Co Founder, Victory Media & President, NaVOBA

Hanford Jones, Black Business Advocate

Ted Martin, Executive Director, Equality Pennsylvania

Matthew Pavelek, Vice President, NaVOBA

Delores Ritzman, Esquire

Jeff Tihansky, President, Ad Infinitem, Inc.

Kell Wilkinson, Policy Director, Equality Pennsylvania

Subcommittee on Program Goals and Metrics

Subcommittee Chair - George R. Burrell, Senior Executive Vice President/COO, Universal
Companies

Joel Acie, MWDBE Projects Manager, University of Pittsburgh Medical Center

Michael Banks, President & CEO, Philadelphia African American Chamber of Commerce

Steven Bradley, Chairman, Philadelphia African American Chamber of Commerce

Jen Briggs, President, Innovative Business Concepts, Inc.

Shariah Brown, President, Personal Touch Cleaning Service

Katrin Hillner, President & CEO, PCN

Kerry Kirkland, Deputy Secretary, Department of Community and Economic Development

Vince Loose, President & CEO, Unique Source Products & Services

Michael Rashid, Former CEP (retired Feb. 2014), AmeriHealth Caritas

Brenda Ritter, President & CEO, Info-Matrix Corporation

Kyron Robinson, Managing Partner, ProRank Business Solutions, LLC

Karl Singleton, Senior Advisor, City of Harrisburg

Blanding Watson, President, National Association for the Advancement of Colored People
(NAACP), Lancaster Branch

Wade West, Managing Partner, ProRank Business Solutions, LLC

Zachary Wilcha, Executive Director, Independence Business Alliance

Judy Woodson-McNeil, Program Coordinator, Diversity Business Resource Center

Subcommittee on Training, Workforce Development and Diversity

Subcommittee Chair - Carl Cooper, Owner, Diversity Consulting

Eugene Reuben Bell, Educator

Benjamin Brooks, President, Major Ben's Consulting

Rosetta Carter, Director, Community Health Education, City of Chester,

Janet Fiore, CEO, The Sierra Group

Kailash Kalantri, President & CEO, Acclaim Systems, Inc.

Carol Kilko, Deputy Secretary for Administration, Department of Community and Economic Development

Tomeka Lee, Owner, Trizen, LLC

Tyrone Miller, President, Access Personnel Services, Inc.

Larry Myers, L. Myers Associates

Leland Nelson, Owner, Dirty Dog Hauling

Robert O'Brien, Executive Deputy Secretary, Department of Labor and Industry

Myneca Ojo, Director, Office of Diversity & Inclusion, Turnpike

Mary Powell, Esquire

Robert (Bobby) Simpson, CEO, Crispus Attucks Association

Joi Spraggins, President, Legacy Pathways & Footprints, LLC

Sala Udin, (Former Pittsburgh City Council Member)

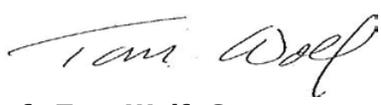
Anthony Wigglesworth, Executive Director, Philadelphia Area Labor-Management Committee

Harry Young, President, LGBT Chamber of Commerce

Appendix C. Executive Agencies Reporting to Governor Wolf

- Governor's Office
- Executive Offices:
 - Office of Administration
 - Office of the Budget
 - Office of General Counsel
 - Office of Health Care Reform
 - Office of Housing and Community Revitalization
 - Office of Inspector General
 - Governor's Advisory Commission on African American Affairs
 - Governor's Advisory Commission on Asian American Affairs
 - Governor's Advisory Commission on Latino Affairs
 - Pennsylvania Council on the Arts
 - Pennsylvania Commission for Women
 - Juvenile Court Judges Commission
 - Public Employee Retirement Commission Pennsylvania
 - Commission on Crime and Delinquency
 - Pennsylvania Rural Development Council
- Lieutenant Governor's Office:
 - Board of Pardons
- Department of Aging
- Department of Agriculture
- Department of Community and Economic Development
- Department of Conservation and Natural Resources
- Department of Corrections
- Department of Education:
 - Thaddeus Stevens College of Technology
- Department of Environmental Protection:
 - Environmental Hearing Board
- Department of General Services
- Department of Health
- Insurance Department
- Department of Labor and Industry
- Department of Military and Veterans Affairs
- Department of Human Services
- Department of Revenue Department of State
- Department of Transportation
- Pennsylvania State Police
- Pennsylvania Emergency Management Agency
- Pennsylvania Board of Probation and Parole

Appendix D. Executive Order 2015-11

<p>Executive Order Commonwealth of Pennsylvania Governor's Office</p>	
<p>Subject: Diversity, Inclusion and Small Business Opportunities in Commonwealth Procurement and in Pennsylvania’s Economy</p>	<p>Number: 2015-11</p>
<p style="text-align: center;"></p> <p>By Direction of: Tom Wolf, Governor</p>	<p>Date: September 23, 2015</p>

- WHEREAS, This Administration recognizes that diversity, inclusion and small business opportunities are essential to ensuring Jobs That Pay and to restoring a thriving economy for all Pennsylvanians; and
- WHEREAS, The unemployment rate among Pennsylvania’s minority populations is approximately twice the unemployment rate among non-minorities, and the unemployment rate among Pennsylvania’s population with disabilities, including service-disabled veterans, is approximately three times the unemployment rate among the non-disabled; and
- WHEREAS, Low rates of minority-owned, woman-owned and veteran-owned small business participation in Commonwealth procurement contracts and in Pennsylvania’s larger economy contribute to disparities in our unemployment rates; and
- WHEREAS, By previous Executive Order, the executive agencies under the Governor’s jurisdiction are prohibited from discriminating in employment because of, among other factors, sexual orientation or gender identity; and
- WHEREAS, By previous Executive Orders and pursuant to law, the executive agencies under the Governor’s jurisdiction have all been directed to encourage greater participation from small diverse businesses, such as minority-owned, woman-owned, veteran-owned, and service-disabled-veteran-owned small businesses, as well as organizations that provide meaningful employment and business opportunities for persons with disabilities; and
- WHEREAS, This Administration recognizes the need for goal setting, results measurement and greater coordination among all agencies to ensure and increase diversity, inclusion and small business opportunities in Commonwealth procurement contracts and in Pennsylvania’s larger economy.

NOW, THEREFORE, I, Thomas Wolf, Governor of the Commonwealth of Pennsylvania, by the virtue of the authority vested in me by the Constitution and laws of the Commonwealth of Pennsylvania do hereby direct the following:

1. Advisory Council on Diversity, Inclusion and Small Business Opportunities.

There is hereby established an Advisory Council on Diversity, Inclusion and Small Business Opportunities (hereinafter referred to as the "Advisory Council") to advise the Governor's Office and executive agencies under the Governor's jurisdiction on ways to improve state contracting and grant opportunities; job creation initiatives; financing and bonding programs; business assistance and professional development programs.

- a.** The Advisory Council shall be co-chaired by the Secretary of the Department of General Services, the Secretary of the Department of Community and Economic Development, the Secretary of the Department of Transportation, and the Secretary of the Department of Labor and Industry or their designated deputy secretaries. Additional members will be comprised of small business owners; minority business owners; women business owners; veteran business owners; Commonwealth agency staff; and other key stakeholders as identified by the co-chairs and the Governor's Office.
- b.** Commencing no later than September 30, 2015, the Advisory Council shall meet quarterly to provide input and feedback on success metrics and statewide-participation goals; program guidelines, policies and procedures; proposed revisions to Statements of Policy and/or Regulatory packages; and other Commonwealth-issued programmatic materials related to the goal of increasing diversity, inclusion and small business opportunities in Commonwealth procurement contracts and in Pennsylvania's larger economy.

2. Responsibilities.

a. Department of General Services (DGS) shall:

- (1)** Co-chair and provide staffing support to the Advisory Council.
- (2)** Rename its Bureau of Small Business Opportunities as the Bureau of Diversity, Inclusion and Small Business Opportunities.
- (3)** Expand the Bureau's focus in terms of training and outreach, including the establishment of a Mentor-Protégé Program to support capacity building and sustainability among participating businesses and organizations.
- (4)** Expand the Bureau's programs into new segments of state contracting and revisit existing segments to ensure maximum diversity, inclusion and small business opportunities in all state contracting opportunities.
- (5)** Implement meaningful, performance-based metrics and regular reporting intervals to measure the value and success of all diversity programs. Compliance and inclusion; training and education; and financial and business assistance delivered shall be measured at minimum, annually.
- (6)** Work collaboratively with the Advisory Council in establishing a state-wide goal to increase diverse business participation in state contracting opportunities.

- b. Department of Community and Economic Development (DCED) shall:**
- (1) Co-chair the Advisory Council.
 - (2) Ensure that eligible businesses are provided with information and training as applicable for loan and grant solicitations, capital assistance programs and any other business assistance programs provided by the department.
 - (3) Give consideration, where possible, to businesses' diversity status in the selection and award of grants and other financial assistance opportunities to the extent permitted by the United States Constitution, Pennsylvania Constitution, and other state and federal law.
- c. Department of Transportation (PennDOT) shall:**
- (1) Co-chair the Advisory Council.
 - (2) Work with the Advisory Council and DGS to ensure that provisions for diversity, inclusion and small business opportunities in PennDOT contracting opportunities are consistent with statewide program requirements to the extent permitted by the United States Constitution, Pennsylvania Constitution, and other state and federal law.
 - (3) Provide outreach and support services to identify and assist disadvantaged business enterprises and small diverse businesses in performing PennDOT contracts.
 - (4) Enhance PennDOT's disadvantaged business enterprise program to ensure efficiency and timeliness in the processing of certification applications.
- d. Department of Labor and Industry (L&I) shall:**
- (1) Co-chair the Advisory Council.
 - (2) Give consideration, where possible, to employer and employee diversity status in the administration of employment assistance and training programs to the extent permitted by the United States Constitution, Pennsylvania Constitution, and other state and federal law.
 - (3) Ensure that eligible businesses are provided with information and training as applicable for grant solicitations and any other business assistance programs provided by the department.
 - (4) Develop and provide statistical and other data on a quarterly basis related to trends affecting diverse businesses and persons with disabilities for the purposes of informing the Advisory Council and other key stakeholders.
 - (5) Ensure that the programs and resources of L&I's Office of Vocational Rehabilitation are available to eligible persons and businesses.

(6) Effectively utilize L&I's Apprenticeship and Training Council and PA CareerLinks to provide appropriate information and/or assistance to businesses and other entities seeking to employ a diverse and inclusive workforce.

3. Cooperation by Commonwealth Agencies. Agency heads and all Commonwealth agencies under the Governor's jurisdiction shall work cooperatively with DGS, DCED, PENNDOT, L&I, and the Advisory Council to ensure the success of the Advisory Council's mission. Independent agencies, state-affiliated entities, and state-related institutions are also strongly encouraged to work with the departmental co-chairs and the Advisory Council to adopt similar initiatives to support greater diversity, inclusion and small business opportunities in Commonwealth contracting.

4. Effective Date. This Executive Order shall take effect immediately and remain in effect until amended or rescinded by the Governor.