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05-25-10

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking for the Purpose of Reviewing and Potentially Amending General Order 156 and to Consider Other Measures to Promote Economic Efficiencies of an Expanded Supplier Base and to Examine the Composition of the Utilities' Workforce.

Rulemaking 09-07-027
(Filed July 30, 2009)

UTILITY SUPPLIER DIVERSITY PROGRAM STAFF REPORT
WORKSHOP ON "UNDERUTILIZED AREAS"
RULEMAKING 09-07-027

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On March 17, 2010, the Assigned Commissioner and Administrative Law Judge issued a Scoping Memo and Ruling (“Ruling”) determining the scope, schedule, and need for hearing in this proceeding to (R.) 09-07-027. The Ruling specifically directed the Utility Supplier Diversity Program Staff (“Staff”) to hold two workshops: one on the Barriers to Competition and one on Underutilized Areas of procurement. Additionally, the Ruling directed Staff to file and serve a report on each workshop no later than twenty-one days after its completion.

On May 5, 2010, pursuant to the Ruling, Staff held the first workshop in Los Angeles. The workshop focused on “Underutilized Areas” of procurement, i.e., areas where there are few or no small businesses and Diverse Business Enterprises (DBE bidding or receiving utility supply contracts. The workshop sought solutions to change the “status quo.” Included in the workshop were utility representatives, diverse suppliers, diverse community organizations representing business enterprises owned by women, minorities, and disabled veterans (WMDVBE), and other groups interested in the Utility Supplier Diversity program. These groups shared information and ideas about the challenges in each of the top five underutilized areas: Financial Services; Legal Services; Consultant Services; Insurance; and Advertising.

On April 7, 2010, Staff asked the parties to submit pre-workshop written solutions which responded to the main questions and issues for each of the top five underutilized areas as follows: 1) share information and ideas about the challenges in each of these procurement areas; 2) identify the various types of service contracts put out to bid; 3) identify useful development steps for small businesses and DBE to become more competitive; 4) what actions could be taken by the utilities and community groups to develop a broader pool of bidders; 5) what are common deficiencies in bids for these

types of contracts; and 6) are there other obstacles to achieving a large pool of diverse applicants?

In response to Staff's request, on April 26, 2010 the parties submitted solutions and, in some cases, they provided responses to the main questions. Staff reviewed all of the parties' comments and solutions. Here, Staff will focus on the solutions and responses to the specific questions as discussed at the workshop. Additionally, Staff will make recommendations based on the workshop discussion and the common solutions that were agreed upon. To this end, the pre-workshop solutions allowed Staff to use the parties' positions to increase the dialogue at the workshop, in a manner that would facilitate discussions and serve as the basis for the Staff Report – those solutions are noted herein:

PRE-WORKSHOP COMMENTS PROVIDING POSSIBLE SOLUTIONS:

Merriwether & Williams

- Consideration should be given for the utilities to have executive level Supplier Diversity financial service sector specialists – this would give them the necessary status and learned expertise to be much more impactful.
- Change the status quo – any such mandate should, of course, be measurable, monitored, time constrained, and should be accompanied by financial incentives and disincentives.
- Fair and consistent procurement practices are needed, and to the degree informal sole source type relationships exist, diverse suppliers should benefit from these opportunities as well.
- The Request for Proposal (RFP) creation and evaluation should include a key participatory role for a utility team member knowledgeable and responsible for achieving supplier diversity objectives. Their input in the process should be as an

influential member, to offset the status quo tendencies and practices commonly imbedded in the process.

PacifiCorp

- If small businesses are unable to fulfill the entire range of services sought, they could seek to develop partnerships with larger companies to act as subcontractors on work related to projects.

San Diego Gas and Electric/Southern California Gas Company

- Utilities must look past traditional approaches and services to develop niche opportunities.
- Large-scale project consulting firms seem to cooperate on subcontracting sporadically; the CPUC should consider hosting a series of stakeholder meetings.
- DBEs should consider creating value-added joint ventures with larger partners to help spur growth and provide an opportunity to take on larger projects, while retaining their inherent agilities as smaller companies.
- DBEs and supplier development groups should focus on developing the DBE companies' strengths and improving and clarifying the communication/marketing of each DBE's experience, capabilities and strengths via database listings, marketing materials and websites.
- Increase supplier development efforts of those proven, robust DBE suppliers by instituting developmental education and training programs, and personal mentoring by utilities' departmental managers to enhance DBE growth.

AT&T

- The Commission should adopt the recommendations made in the 2009 K&L Gates Report that the Commission recognize certifications and re-certifications by the National Minority Supplier Diversity Council and the Women's Business

Enterprise National Council. Such an action would significantly increase the pool of qualified Minority and Women Business Enterprises (MWBES) available to utilities.

- Prime Contractors Programs – Given that GO 156 already has provisions for prime contractor programs, it would be beneficial for the utilities to share best practices in this area so that they can refine their programs and explain to vendors how such programs work (i.e., under a specific program, the utility says prime suppliers with contracts of \$500,000 or more are encouraged to establish their own Supplier Diversity program, including an annual plan describing how they can provide better business solutions by working with WMDVBE vendors, and quarterly reports on their progress to meet the goals outlined in their annual plan).
- Utilities should sponsor strategic initiatives from time to time to help enhance participation in Supplier Diversity programs.
- Development of Scale and Scope - Smaller California utilities should work with WMDVBEs to help them develop over time the scale and scope to eventually compete for business with larger utilities. Often, the larger utilities find WMDVBEs lack the scale to handle larger projects. Encouraging WMDVBEs to work for smaller utilities to grow to scale and scope would address this issue.

California Hispanic Chambers of Commerce

- CPUC Certification is perceived as onerous and of limited value – the certification process is complicated and can be very expensive to complete, particularly if legal and consultant services are required; and, becoming certified does not mean the business will receive increased business; rather, the benefits of certifications are speculative.

Gray, Greer, Shelby & Vaughn LLC

- If Prime Contractors are not aware of diverse firms to employ as subcontractors, utility Supplier Diversity departments should introduce Prime Contractors to

diverse firms to ensure that supplier diversity language is placed into the Prime's contract. The engagement of an executive officer demonstrates the significance of supplier diversity and reinforces a consistent message from the company to the Prime. Similar reporting, monitoring and compliance should be embraced to track performance.

- Utility Supplier Diversity departments should convene executive level discussions with qualified diverse suppliers and key internal business owners and influencers to ensure that decision makers understand the comprehensive pool of potential bidders. These focused conversations will increase the pool of qualified suppliers and invites a diverse engagement to the procurement process.
- Advocacy groups and third party stakeholders must have a firm understanding of the procurement needs of utilities. Facilitating conversations between business owners and advocacy groups will ensure that diverse suppliers capable of meeting the utility's needs will be identified and utilized.
- Prime contractor opportunities must be defined early by the executive officer or budget owner to understand organizational priorities. Utility Supplier Diversity departments should meet with officers to learn where organizations will spend their contractual dollars for the fiscal year. Once these big ticket items are defined, the utility's Supplier Diversity department must participate throughout the process, from inception to selection to negotiation and implementation with the supply chain and the business owner to ensure diverse firms are part of the process.

Pacific Gas and Electric

- Small businesses and DBEs should develop a familiarity of PG&E's procurement needs.
- Small businesses and DBEs should seek subcontracting opportunities.

- Some of the common deficiencies in bids are generally found with the suppliers' lack of familiarity with PG&E's business operations, and limited ability in handling large volume work.
- In the area of advertising: A useful development step for small businesses and DBEs to become more competitive is to develop alliances with non-diverse marketing firms.
- In the area of insurance: During the RFP process, the utility and community groups could request a partnership with a larger broker firm as part of the proposal.
- In the area of financial services: There are several development steps for small business and DBEs to become more competitive – develop a familiarity with the utility's accounting; develop relationships with larger accounting firms for subcontracting opportunities; network with PG&E and larger accounting firms; and specific to investment banks, meeting with Treasurer or Banking staff.

Greenlining Institute (GLI)

- GLI recommends that the underutilized categories should be expanded beyond those currently identified. They cite “Technical/Analyzing Instruments” and “Communications & Marketing” as areas that have potential for substantial growth. They state the utilities must engage in a more thorough assessment of their underutilized areas and tailor their procurement efforts accordingly.
- Greenlining recommends the utilities be encouraged to set their own sub-goals for underutilized categories – including those identified by the Commission as well as any others demonstrated to be underutilized by the utility's annual reports. They state that what has worked for diverse procurement overall can work for specific spend areas, but the first step is to set goals.

Mabuhay Alliance

- Major technical assistance and capacity building should be part of the solution. Each company subject to GO 156 should be requested to develop a funding source related to a percentage of their overall procurement spend.
- There should be a focus on creating co-ops to ensure that small businesses can effectively work together to compete against larger entities.
- Fundamental change is not going to occur without buy-in from the CEOs and they urge that the CEOs be informed fully of the recommendations and meet with the affected parties.

California Water Association

- The “homerun” complex should be avoided. Instead of seeking to win an entire contract in its first transaction with the utility, the DBE will have a better chance of success by adopting a “niche” approach for a piece of that contract, even if it means partnering with a competitor who has a complimentary skill set in order to “get in the door.”
- An overall focus on developing a sustainable business plan with long-term growth opportunities identified always helps in strengthening competitiveness.
- Host industry-specific workshops for their existing vendors, certification workshops for prospective vendors, and specialized workshops with professional services firms (e.g., the 2009 Commission-Price Waterhouse Cooper workshop). Utilities can also educate their primary suppliers on the need for demonstrable second-tier outreach and education. Funding education programs in local communities is another way to increase the pool of DBE bidders.
- Avoiding unrealistic price expectations that lead to overbidding or underbidding are an additional obstacle, which may be more of an obstacle in bids for contracts.

Southern California Edison

- California utilities should share information on emerging and minority managers and service providers that have been identified as having, or are developing, the skills required to provide financial services to the utilities.
- Participate in quarterly meetings with WMBDVE law firms in order to network with those firms to find potential outside counsel.
- WMDVBE insurance brokers should consider narrowing their focus to a certain industry group or certain lines of insurance. By concentrating resources on a narrower market segment and hiring people with expertise in those industries or lines of insurance, WMDVBE brokers should be better able to compete with larger brokers.
- Potential solutions for increasing the utilization of WMDVBEs in advertising – (1) regularly review territory demographics to align spending targeted to ethnic communities with the percentage of a utility’s customer base those ethnic groups make up; (2) regularly review advertising targeted to ethnic minorities to ensure it is trending up or remaining constant; and (3) ask whether non-WMDVBE agencies subcontract with WMDVBEs.
- Potential solutions for increasing the use of WMDVBE consultants – (1) unbundling of contracts; (2) collaboration/partnerships between WMDVBE consulting firms in order to compete in larger arenas; and (3) encouraging the primes to use WMDVBE consultants as subcontractors.

Black Voice, also known as African American Voice and Black Economic Council

- Contracts must be unbundled and divided into smaller contracts; few utilities follow the Wal-Mart system of effectively enforcing their goals on Tier 1 and Tier 2 suppliers;

- Small businesses cannot become more competitive until they receive: a) assurances that they will be effectively considered, b) substantial technical assistance, c) capacity building aid, d) a wide range of pro bono services such as CPA services, legal services and promotional services, and e) encouragement to form cooperatives so that small businesses effectively compete with a large company bidder. One way to do so would be to set aside one quarter of one percent (0.25%) of total procurement dollars per company for technical assistance, capacity building and formation of cooperatives (or an estimated \$25 to \$30 million per year); and, too many itemized products and services lack clarity, thereby preventing effective comparisons among the utilities.

American Indian Chamber of Commerce

- There should be a development program within the utilities to help “grow” minority businesses. Some underutilized areas are not favorable for subcontracting relationships and a true development program, not necessarily subcontracting, is needed.
- Allow supplier presentations to end-users and buyers in the utility that may have out-sourced projects relevant to that supplier, whether or not there is an opportunity presently, but in advance of when the bids are let.
- There should be better overall links from external company sources to internal company buyers to include Native businesses in the supply chain.

Sprint

- If possible, the CPUC could introduce/align 3-5 diverse suppliers who are qualified to provide services in underutilized areas to the Utilities instead of requesting the Utilities search through the pool of suppliers. (Note: The suppliers will need to provide references and prove they are qualified to provide these services prior to being aligned to a Utility, because "certification" as a diverse

supplier doesn't necessarily mean "qualified". Some suppliers are too small to take on major corporations.)

- Each Utility can identify their top 10 large non-diverse California suppliers and request their support in mentoring a diverse supplier to serve as one of their subcontractors.
- CPUC and the Utilities can partner to develop/mentor diverse suppliers to prepare them to support major corporations in these areas; similar to an intern program.

WORKSHOP SOLUTIONS TO ENCOURAGE INCREASED PROCUREMENT FROM THE TOP FIVE UNDERUTILIZED AREAS:

Staff consolidated over fifty recommended pre-workshop solutions and packaged them into eight solutions common to many underutilized areas, and five industry specific solutions, which were used at the workshop as follows:

COMMON SOLUTIONS

1. UNBUNDLING

Generally, the parties agreed unbundling contracts is an opportunity to develop small and diverse owned businesses. More importantly, they saw it as an opportunity to forge relationships between community organizations, small and diverse businesses, and the utilities in identifying specific procurement needs of the utilities. Still, some parties expressed concern over the utilities' established, long-term relationships with large primes and parties indicated the utilities are reluctant to sever and/or endanger those relationships. The parties suggested programs be implemented by the utilities to encourage an awareness of supplier diversity in the workplace – including a strong commitment by management at all levels of the procurement supply chain. The Utilities also agreed to unbundling contracts, but voiced concern over the size of specific contracts. Utilities do not see the benefit of breaking contracts below a certain level. For instance, a contract that is normally worth \$5 million cannot be separated into contracts worth \$50,000 each; for the utility that level of unbundling is not cost efficient.

2. INCLUSION OF SUPPLIER DIVERSITY INVOLVEMENT IN RFP

A common solution was that the RFP creation and evaluation should include a key participatory role for a utility team member knowledgeable and responsible for achieving supplier diversity objectives. Their input in the process should be as an influential member, to offset status quo tendencies and practices commonly imbedded in the process.

There was general agreement amongst the diverse suppliers and diverse community organizations that there is a communication breakdown between supplier diversity and procurement within the utilities. Or, worse yet, some of the utilities are not fully engaged in the practices of supplier diversity.

The diverse suppliers and community organizations also agreed that there must be awareness of and access to the RFP process – by breaking down these contracts it would provide more opportunities to diverse businesses. However, the utilities agreed that they do provide access to impending RFPs through their websites and other means. One utility suggested some diverse suppliers are not registering properly on their database for these opportunities as some of them omit required information. One utility advised Staff of a new fix in their system – to be implemented this month - any RFPs over \$250,000 with no diverse suppliers will cause a “red flag” notification to management. This type of measure is also already the process for most of the large utilities. For instance, Sempra Utilities encourage that at least two minority businesses be included in every RFP.

More importantly, everyone seemingly agreed that the decision making process about procurements and budgets are done at the front-end of the RFP process, and corporate leadership and Supplier Diversity must be included in that stage of the process. The Utilities with already established successful Supplier Diversity programs also mentioned that they already involve their Supplier Diversity departments at the front end of the process.

3. PRIME CONTRACTORS PROGRAMS

The diverse supplier representatives agreed that given that GO 156 already has provisions for prime contractor programs, it would be beneficial for the utilities to share best practices in this area so they can refine their programs and explain to vendors how such programs work.

The diverse suppliers, community organizations, and utilities all agreed that it is essential to include language in the primes' contracts that would require them to provide subcontracting opportunities. Some of the parties agreed the utilities should require their primes to establish their own supplier diversity programs, including an annual plan describing how they can provide better business solutions by working with WWDVBE vendors. Sempra Utilities in particular said that they already include language in their contracts that requires their prime contractors to procure up to 30% of their procurement from diverse suppliers. PG&E also intimated that they have similar language in their contract. The parties also agreed that educating the Utilities' supply chain would be an effective way in reinforcing the concept of supplier diversity, and that it is a business imperative, not a social contract. In response Sempra Utilities and PG&E said that they each include supplier diversity goals as part of their executive compensation.

4. TRANSPARENCY (i.e., IOU's Information)

The parties generally agreed advocacy groups and third party stakeholders must have a firm understanding of the utilities' procurement needs; they also suggested this is true for all businesses vying for utility procurement opportunities. Additionally, diverse businesses and advocacy groups suggested there must be greater transparency in the diverse supplier procurement process. To do so, they suggested prime contractor opportunities must be defined early by the executive officer or budget owner to understand organizational priorities. The utilities did not voice a specific concern of transparency, but wanted to get more information about how to become more transparent.

5. SPECIFIC GOALS FOR UNDERUTILIZED AREAS

Another solution that was common was that the utilities should be encouraged to set their own sub-goals for underutilized categories – including those identified by the

Commission as well as any others demonstrated to be underutilized by the utility's annual reports. They state that what has worked for diverse procurement overall can also work for specific spend areas, but the first step is to set goals.

The parties agreed to the concept of specific goals for underutilized areas. They further suggested that if the Commission were to accept this concept, that it allow the utilities to implement their goals and targets on a voluntary basis. The utilities suggested that they already have sub-goals, and were not too concerned about this issue, but agreed that it must be voluntary similar to the existing goals of GO156.

6. NICHE APPROACH

Another common solution similar to unbundling was that the “homerun” complex should be avoided. Instead of seeking to win an entire contract in its first transaction with the utility, the DBE will have a better chance of success by adopting a “niche” approach for a piece of that contract, even if it means partnering with a competitor who has a complimentary skill set in order to “get in the door.”

The parties agreed that some small and small diverse businesses may lack the capacity to meet the large procurement requirements of the utilities. They suggested that the “niche” approach for a piece of the contract would likely work in the favor of these small businesses. Again, the parties reinforced the concept of unbundling contracts and subcontracting opportunities as a way to achieve this.

7. INDUSTRY-SPECIFIC WORKSHOPS

Another common solution was that utilities should host industry-specific workshops for their existing vendors, certification workshops for prospective vendors, and specialized workshops with professional services firms (e.g., the 2009 Commission-Price Waterhouse Cooper workshop). Utilities can also educate their primary suppliers on the need for demonstrable second-tier outreach and education.

Most parties agreed to the idea of utility hosted industry-specific workshops. The workshops must be a strategic engagement where mentoring and technical assistance are

available. Some suggested the Commission should also host industry-specific workshops; some noted Commissioner Simon's New Connections Symposiums as the model that could be used. Utilities also agreed to this idea and said that industry specific events continue to work and they'll continue to sponsor them.

8. DISABLED VETERANS BUSINESS ENTERPRISES PARTICIPATION

A common solution to most utilities facing the challenge to meet the current Disabled Veterans Business Enterprises (DVBE) goal is that a too-narrow definition of eligible DVBE has created an artificially small pool of qualified vendors.

Parties agreed that the limitation and definition of an eligible DVBE are matters for legislative changes. In any case, the utilities agreed to continue and redouble their efforts in support of DVBEs. One of the utilities advised us that it would be launching a program "Operation Hand Salute" – this program includes a mentor-protégé component for DVBEs that show significant promise.

INDUSTRY SPECIFIC SOLUTIONS

In addition to the common solutions discussed above the workshop also facilitated a discussion on specific improvements that can be made in each of the five identified underutilized areas.

1. FINANCIAL SERVICES - The diverse representatives said utilities should share information on emerging and minority managers and service providers that have been identified as having, or are developing, the skills and capacity required to provide financial services to the utilities. Generally, the utilities agreed they do not bundle contracts for financial services. Instead, they look at the capabilities of diverse emerging financial services firms and their capacity to do business with the utilities. Parties agreed on the need for the participation of the utilities' senior management in the negotiation process of these lucrative financial transactions.

2. LEGAL SERVICES - Participate in quarterly meetings with WMBDVE law firms in order to network with those firms to find potential outside counsel. Generally, everyone agreed the utilities and their general counsels should participate at quarterly meetings with diverse law firms to find outside counsel.

3. INSURANCE BROKERS - WMDVBE insurance brokers should consider narrowing their focus to a certain industry group or certain lines of insurance. By concentrating resources on a narrower market segment and hiring people with expertise in those industries or lines of insurance, WMDVBE brokers should be better able to compete with larger brokers. Most of the suppliers and community groups agreed that the utilities should not require WMDVBE insurance brokers to narrow their focus to certain industry groups or certain lines of insurance.

4. ADVERTISING - Potential solutions for increasing WMDVBES in advertising – (1) regularly review territory demographics to align spending targeted to ethnic communities with the percentage of a utility's customer base that those ethnic groups make up; (2) regularly review advertising targeted to ethnic minorities to ensure it is trending upward or remaining constant; and (3) ask whether non-WMDVBE agencies subcontract with WMDVBES. The parties agreed that advertising is undergoing a paradigm shift with new technological advances (i.e., cell phone, internet marketing). They also agreed that small and diverse businesses should participate at Mosaic fairs that are hosted by the advertising association.

Some of the utilities agreed that they do not advertise in the traditional sense. Rather, they conduct customer education and customer communications programs through relatively limited budgets, and virtually all of that work is done in-house. Even so, the diverse businesses and community groups agreed the utilities must think outside of the box and come up with creative solutions to provide small and diverse businesses with opportunities.

5. CONSULTANTS - Potential solutions for increasing the use of WMDVBE consultants – (1) unbundling of contracts; (2) collaboration/partnerships between WMDVBE consulting firms in order to compete in larger arenas; and (3) encouraging the primes to use WMDVBE consultants as subcontractors. Most of the parties agreed to the recommendations, noted in the above-referenced items identified as one through three. Additionally, the parties agreed the utilities should host a series of consultant fairs with matchmaking opportunities with their Primes (i.e., Accenture, Deloitte).

STAFF RECOMMENDATIONS

A. Unbundling

Staff recommends the Commission’s support for unbundling of large suppliers’ contracts. Most of the big five utilities (AT&T, PG&E, SCE, Sempra, and Verizon) suggested they already unbundle their contracts in some form or another, or include sufficient contract language to motivate their primes to offer subcontracting opportunities, Staff commends them for doing so. However, it appears each of the utilities has a different approach to unbundling, and there is little consistency, or their methodology is unclear. The lack of consistency does not provide for a transparent process. This lack of transparency argues against the utilities’ position that diverse suppliers and community groups fail to understand the utilities’ procurement requirements. Staff also recommends the Commission suggest the utilities, the community groups, and Staff work together in a special workshop on unbundling to explore best practices amongst the utilities and align on a consistent process for unbundling the utilities’ large contracts. Moreover, we recommend that the representatives of the diverse suppliers work together and suggest specific changes to the current practice then centralize that information and promote the best practices via the Supplier Clearinghouse website. We believe that a continued effort in this area coupled with direct communication with the utilities will bring the best results.

B. Inclusions of Supplier Diversity Involvement in RFP

Staff strongly agrees with the parties that Supplier Diversity’s involvement early in the RFP process is the key factor in the participation of small and diverse businesses in

procurement opportunities with the utilities. Staff recommends the Commission's support in motivating the utilities' senior management to include Supplier Diversity early in the decision making process for RFPs. Staff believes this would help change the institutional culture of utilities where they omit Supplier Diversity from being a key influencer in the RFP process.

C. Prime Contractor Programs

Staff recommends the utilities fully encourage, but not mandate, their prime contractors to utilize small and diverse businesses in their contracts. Additionally, the utilities may encourage primes to establish their own internal supplier diversity programs in furtherance of this concept, and with the realization that a prime who already has a supplier diversity program in place will be more inclined to use it, and will find it easier to provide subcontracting opportunities to small and diverse businesses. It does seem, however, that the large utilities already work with their prime contractors to encourage them to use supplier diversity as a source of economic development. The issue, however, is whether the utility follows through or is it just another check mark on their list of things to put in their prime contracts. Staff recommends that utilities encourage their prime contractors and become an active participant to make sure that the prime follows through on their commitment.

D. Transparency

Staff agrees with parties that the Utility Supplier Diversity Program of the Commission must foster transparency in order to give small and diverse businesses knowledge of the utilities' procurement opportunities. To do so, the utilities should be encouraged to post their procurement opportunities in a way that makes it easier for those businesses to locate the opportunities. Currently, the utilities have a non-uniform manner of informing small and diverse businesses of RFPs and opportunities. In the case of the one utility, suppliers are required to provide affirmative information about their business on the utility's website. However, if the information is completed incorrectly, suppliers may not get information about RFPs which are available.

E. Specific Goals for Underutilized Areas

Staff agrees with the parties that specific goals for underutilized areas be established. Therefore, Staff recommends the Commission encourage the utilities to set voluntary goals for specific underutilized areas. Further, Staff recommends the Commission consider having the goals implemented on a gradual and increasing basis over a specified time frame. For example, goals may be established at a baseline level and then increased by a constant percentage amount over a certain number of years until an ultimate goal is achieved.

F. Niche Approach

Staff agrees with the parties that some small and diverse businesses may lack the capacity to meet the large procurement needs of the utilities. Staff further agrees the “niche” approach to obtain a portion of the contract would likely work in favor of those businesses. Staff recommends the Commission reinforce the concept of unbundling contracts to make those types of opportunities available. It is also important to note that while the Commission can take a leadership position and continue to encourage the utilities it is also incumbent on the leaders of the diverse suppliers to do their part in bringing together experienced and successful diverse suppliers to mentor and guide the emerging suppliers. Therefore, we look to the representatives of the diverse suppliers to hold match-making events between diverse suppliers in an effort to pave the way for the emerging suppliers. Greenlining, California Utility Diversity Council (CUDC) or any Chamber or group should organize such events throughout the year and invite the Commission’s staff as well as potentially the utilities, but more importantly the purpose of these events would be to introduce an established and already successful diverse supplier to one who is beginning to enter the market.

G. Industry Specific Workshops

Staff agrees with the parties that the utilities should host industry-specific workshops. These workshops should be a strategic engagement where mentoring and technical assistance are available. Even though parties suggested the Commission also host industry-specific workshops, Staff makes no recommendation for the Commission to

do so. Should individual Commissioners wish to host specific related events, the Commissioner may elect to do so on his or her own initiative.

H. Disabled Veterans Business Enterprises Participation

Although DVBEs are underrepresented in all categories of the utilities' spend, Staff agrees with the parties that the limitation and definition of eligible DVBEs are matters for legislative changes. The DVBE representatives have differing views on whether the current definition is too narrow or not and until there's agreement within the groups the Commission and the Utilities are hampered with this internal disagreement. Currently, Alliance which represents one group of DVBEs agrees that only DVBE's that have businesses based out of California can qualify for the DVBE program whereas the Elite group agrees that all DVBEs should be included as part of the program. Staff commends those utilities that have redoubled their efforts in support of DVBEs' participation. Staff recommends the Commission continue its review of the utilities' plans in reaching their DVBE goals under the Utility Supplier Diversity Program.

CONCLUSIONS:

The workshop highlighted a need for the representatives of the diverse suppliers to work together and identify specific solutions that not only the utilities should pursue, but also solutions that the representatives for the diverse suppliers should pursue. For example, working together and building information coalitions, working partnerships, and creating cooperative bidding is an important part of achieving the goals. Similarly, it may be fair to say that the utilities have some comfort in their approaches to date which have yielded good results in some areas. However, it is always time to re-think methods if the communities don't believe they are being invited in and/or the results are not as complete as they should be. One potential solution to reaching a plateau is if the utilities brought their top suppliers/manufacturers for a best practices forum and get some commitments to mentoring, sub-contracting to the new, and/or smaller businesses.

Overall, the workshop provided some reasonable solutions and we'll attempt to encourage both the utilities as well as diverse representatives to adopt those that apply to

them, respectively. It should be noted that although the Commission continues to encourage fairness and inclusion, the intent of the GO156 program is not to create a set aside for any group or to discriminate against any group. One of the Commission's commitments to ratepayers is to promote the health of California's economy. Consequently, the Commission's goal in terms of supplier diversity is an economic development initiative and not a social responsibility program. In order to get the economy moving, all suppliers must be factored into the job creation equation. Opportunity, inclusion, equity and accessibility are critical factors to address underutilization of diverse suppliers within financial services, legal services, consultant services, insurance and advertising.

Opening Comments on this report are due June 10, 2010. Reply Comments are due June 21, 2010.