

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking to Review and Potentially Amend General Order 156, to Consider Other Measures to Promote the Economic Efficiencies of an Expanded Supplier Base, and to Examine the Composition of the Utilities' Workforce

FILED  
PUBLIC UTILITIES COMMISSION  
JULY 30, 2009  
SAN FRANCISCO, CALIFORNIA  
RULEMAKING 09-07-027

**THE CALIFORNIA HISPANIC CHAMBERS OF COMMERCE AND  
CALIFORNIA ASIAN PACIFIC CHAMBER OF COMMERCE:  
JOINT COMMENTS ON PROPOSED DECISION**

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**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Review and Potentially Amend General Order 156, to Consider Other Measures to Promote the Economic Efficiencies of an Expanded Supplier Base, and to Examine the Composition of the Utilities' Workforce

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**INTRODUCTION**

In this rulemaking proceeding the Utility and WMDVBE communities each produced innovative and legally defensible measures to achieve full supplier diversity within the framework of General Order 156. It is with some disappointment then that the Proposed Decision, by and large, ignores these measures in favor of the path of least resistance. At a time when Hispanics and Asian-Pacific Islanders account for 51% of California's population<sup>1</sup> but only receive 11.9% of Utility contracts,<sup>2</sup> and at a time when the Utilities are still not collectively meeting the GO 156 procurement goals, the path of least resistance is not an option. The California Hispanic Chambers of Commerce ("CHCC") and the California Asian Pacific Chamber of Commerce ("CAPCC") (collectively, "Chambers") assert that the Proposed Decision can and must be strengthened to incorporate actions that will improve GO 156 and result not only in tangible increases in supplier diversity, but also in benefits to California's overall economic well-being.

**DISCUSSION**

**A. The Public Utilities Commission Should Exercise Its Legal Authority To Adopt And Implement A Technical Assistance Plan.**

In this proceeding, both the Utilities and the community-based organizations ("CBOs") agreed that the largest obstacle towards achieving the GO 156 supplier diversity goals is a

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<sup>1</sup> See [http://2010.census.gov/news/xls/cb11cn68\\_ca\\_2010redistr.xls](http://2010.census.gov/news/xls/cb11cn68_ca_2010redistr.xls) [visited Apr. 20, 2011].

<sup>2</sup> *Greenlining Institute 2010 Supplier Diversity Report Card*, p. 13.

shortage of qualified diverse business enterprises (“DBEs”) that are able to compete for Utility contracts. To address this issue, the Chambers first, and subsequently the Joint Utilities (SCE, PG&E, Sempra, AT&T, Verizon, and CWA), introduced comprehensive Technical Assistance Plans. These proposals were, in essence, the groundbreaking culmination of the entire rulemaking proceeding.

The Proposed Decision does not carry to fruition these groundbreaking efforts. Specifically, the Proposed Decision simply orders the Joint Utilities’ proposal to be attached to the decision, and on the Supplier Clearinghouse website. Additionally, the Proposed Decision includes the following Finding of Fact:

3. It will advance the goals and policies of GO 156 for utilities and CBOs that conduct TA and CB training to share resources, conduct outreach, work together, exchange constructive criticism, share best practices, and assist smaller and newer reporting companies with their supplier diversity programs.

(Proposed Decision, p. 61.) This Finding of Fact simply reflects the status quo.

The Chambers believe the Public Utilities Commission (“PUC”) should take the next step of formally adopting a technical assistance program after conducting a workshop to harmonize the Chambers’ proposal with that of the Joint Utilities. Such a workshop is imperative to taking decisive and informed action on the technical assistance plans that were introduced in this proceeding. For their part, the Chambers maintain that a technical assistance program will be most successful if it focuses on the 1,000 qualified DBEs that have been certified by the Supplier Clearinghouse.<sup>3</sup>

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<sup>3</sup> There are pragmatic reasons for focusing on qualified DBEs. Specifically, the Chambers observe from their own experience that adopting a technical assistance program targeted to unqualified businesses will require an extraordinary investment of ratepayer funds due to the level of education needed to train unqualified DBEs and associated administrative costs. The Chambers observe that the Utilities, and their ratepayers, will receive a significantly larger “return” by investing in those businesses that have a baseline amount of technical sophistication. As noted in the rulemaking proceedings, it is simply a waste of resources to expend ratepayer funds attempting to transform a hair styling business into a business that is able to competitively bid on Utility contracts.

The CHCC and CAPCC assume the decision not to adopt a technical assistance program is based on perceived limits imposed by Proposition 209.<sup>4</sup> However, Proposition 209 does not present a roadblock to the adoption of a technical assistance program. First, the PUC may implement a technical assistance program through voluntary memoranda of understanding with the Joint Utilities. Indeed, utilities such as Verizon have entered into MOUs in other states precisely to overcome legal challenges related to affirmative action. (See **Exhibit 1**.) Voluntary MOUs plainly would not fall within Proposition 209's prohibitions because the PUC would not be the acting party (i.e., it would not be administering or formally adopting the technical assistance program). (See Cal. Const., art. I, § 31.) Accordingly, the Proposed Decision should be modified to authorize the PUC's Supplier Diversity Program staff to enter into MOUs with the Joint Utilities for the implementation of a technical assistance plan.

Second, and as an alternative method, the PUC may directly adopt and implement a technical assistance program as a form of permissible outreach as defined under SB 1045. SB 1045, adopted in 2002, delineates a program of focused outreach and recruiting measures state and local agencies may undertake to increase supplier diversity and which are permissible under Proposition 209. (See Gov. Code, §§ 11139.6 and 11139.7.) In promulgating SB 1045, the Legislature's intent was to "emphasize and clarify that Section 31 of Article I (i.e., Proposition 209) does not prohibit governmental agencies from fashioning outreach programs in ways that will yield diverse results in public employment and public contracting." (SB 1045, Sec. 1, sub. (e) [attached as **Exhibit 2**].) SB 1045's outreach program was also based on the legislative finding that "increasing the number of businesses that participate in the bidding process in public contracting results in more vigorous competition, and thus assists state and local agencies in obtaining the desired quality of work at a lower cost." (Gov. Code, § 11139.6(a)(2).) The list of outreach activities authorized under SB 1045 includes, but is not limited to: (1) distribution of bid

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<sup>4</sup> Clearly, GO 156 itself does not constitute a legal barrier to the adoption of a technical assistance plan. The technical assistance plans will not, in any way, impact vendor selections by a Utility, or affect their "legitimate business judgment." (See Proposed Decision, p. 17.) In fact, the technical assistance plan presented by the Joint Utilities is, as the Proposed Decision notes, the expression of their business judgment.

notices to ethnic chambers of commerce and business associations; (2) outreach to ethnic chambers of commerce, and other business and trade associations; and (3) publication of contracting opportunities in trade papers focusing on small business enterprises. (Gov. Code, § 11139.7(c)(1)-(3).) The technical assistance plans offered by the Joint Utilities and the Chambers are plainly comparable to the outreach activities listed in SB 1045 because, like those outreach activities, the plans are meant to, and will only result in the dissemination of information. The plans will not result in impermissible set-asides or quotas. The plans will not impact or serve as a guidepost to vendor selections.<sup>5</sup> The technical assistance plans are consistent with the Legislature's intent in adopting SB 1045, as the plans are reasonably related to the Legislature's statutory purpose of increasing the pool of diverse, competitive businesses.

In sum, the CHCC and CAPCC assert that the PUC has the legal authority to adopt and implement a technical assistance program to be carried out by the Utilities in concert with the PUC. The PUC, in failing to exercise this authority, will have lost an important opportunity to improve upon GO 156.

**B. The Proposed Decision Must Be Modified To Include Greater Transparency In The GO 156 Program, And Mechanisms For Increasing Overall Program Success.**

The Chambers first and foremost laud the Proposed Decision in its adoption of amendments to GO 156 that provide for electronic access to the Utility annual reports, and require reporting on the numbers of WMDVBEs receiving contracts. These are important amendments that will provide the public with easily accessible and important information regarding GO 156 program performance.

The Chambers maintain, however, that more oversight must be injected into the GO 156 program. Presently, all GO 156 presently requires is for the Utilities to *file* an annual report. GO 156 does not, however, contain any provisions for substantive performance

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<sup>5</sup> In no way could a court interpret the plans as constituting a violation of Proposition 209 as that proposition has been interpreted by the California Supreme Court. The plans do not create bid discounts for DBEs (*Coral Construction, Inc. v. City and County of San Francisco* (2010) 50 Cal.4th 315); or mandate outreach or participation requirements that exclude non-DBEs (*Hi-Voltage Wire Works, Inc. v. City of San Jose* (2000) 24 Cal.4th 537).

review (i.e., feedback) on the supplier diversity programs, or the individual annual reports. What little review that does occur within the GO 156 framework is a report on collective Utility performance that is submitted to the Legislature.

The Proposed Decision discounts the need to amend GO 156 to introduce more intensive oversight because “the annual reports, en banc hearings, and Commission-hosted workshops and events generate a lot of information about how the utility programs are working.” (Proposed Decision, p. 59.) However, neither the reports, hearings, or workshops act to formally effectuate improvement. Further, with the exception of the annual reports, none of this information is produced or made publicly available within the GO 156 program.

It should be common sense by now that a regulatory program such as GO 156 is only as strong as its oversight and enforcement mechanisms. Without formal performance review and publicly available feedback, the Utilities can largely avoid amending deficient supplier diversity programs and, more importantly, underperforming Utilities will continue to underperform. Accordingly, the Chambers again assert that GO 156 should be amended to formally authorize the PUC to audit the annual reports and make specific recommendations (including best practices) to underperforming Utilities as to remedial measures they can undertake to improve their supplier diversity programs.<sup>6</sup> Moreover, to increase transparency in the program, the results and contents of this performance review must be made available to the public and subject to hearing by the Commission.<sup>7</sup>

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<sup>6</sup> Over the entire course of this Rulemaking, only one Utility has ever stated it was the subject of a PUC audit (i.e., Southern California Edison).

<sup>7</sup> The State of Maryland has agreed to an audit framework with its regulated utilities that can and should be included into GO 156. This framework is embodied in memoranda of understanding (MOUs) between the regulated utilities and the Maryland Public Service Commission (See Maryland Public Service Commission website, [http://webapp.psc.state.md.us/Intranet/utility/sdiversity\\_new.cfm](http://webapp.psc.state.md.us/Intranet/utility/sdiversity_new.cfm)), accessed Aug. 5, 2010.) Relevant here, the MOUs require the Public Service Commission to audit and hold public hearings on the annual reports if necessary. This requirement, excerpted from Verizon’s MOU with the Public Service Commission, is as follows:

## **8 Review; Report; Public Hearing**

For the reasons delineated above, the Chambers assert that GO 156 should be amended to include similar, though mandatory language which *requires* the PUC to audit the annual reports and hold discretionary public hearings on the reports if determined necessary.

**C. The Supplier Clearinghouse Can Easily Be Improved To Host RFP And Bid Information.**

The Chambers again reiterate that the Utilities should post RFP and bid information on the Supplier Clearinghouse website. Contrary to language in the Proposed Decision, the publication of bid notices and RFP information is not an IT challenge, nor does it require a significant expenditure of financial resources. (Proposed Decision, pp. 52-53.) The CAPCC, for its part, already publishes bid notices from Utilities and prime contractors on its [www.youconnecthere.com](http://www.youconnecthere.com) website. As part of the website, member businesses automatically receive notices based on the business's profile. The CHCC has similar capabilities on its website.

In addition, the California Department of General Services contains a centralized database that hosts 4,000 RFPs and bid notices annually from all state agencies, including Caltrans, for example. The participating agencies have full control over the RFP/bid notice content. The administrator of this website, Bid Sync, informed the Chambers that it takes less than four (4) weeks to create such a site. (See [www.bidsync.com](http://www.bidsync.com).)

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**8.1.** The Commission's Office of External Relations ("OER"), in conjunction with the Commission's Technical Staff (collectively, with OER, the "Staff"), may review the Utility's Diverse Supplier Annual Report and Annual Plan not more than two years after the report is filed. Upon the request of the Staff the Utility shall make available all source documents and reports used and relied upon in the production of the filed annual reports and answer all inquiries regarding its filed reports. Upon completion of the review, a draft report of findings will be issued to the Utility. Within 30 days of issuance of the draft report, a response is due from the Utility.

**8.2.** Within 10 days of receipt of the Utility's response, Staff will finalize its report and file it with the Commission. In this report, Staff shall summarize the Utility's results and Goals for the applicable period as well as the Utility's compliance with the MOU. The report will also include findings of the completed Diverse Supplier review.

**8.3.** Following issuance of Report, the Commission may hold public hearings on the Utility's Annual Report and Annual Plan.

(Memorandum of Understanding between Verizon Maryland, Inc. and Maryland Public Service Commission, Feb. 6, 2009, pp. 27-28.)

Accordingly, given the ease and value of this improvement, the Chambers assert the PUC should require the Supplier Clearinghouse to have bid notice capabilities in place by **August 1, 2011.**

**D. To Facilitate Collaboration Between The Utilities And The Community Based Organizations, GO 156 Must Be Amended To Incorporate The Outreach Measures Embodied In SB 1045.**

As the Proposed Decision observes, there has been a general lack of coordination between the CBOs and the Utilities. The Decision goes on to conclude that:

“Based on the record, it is reasonable for the CBOs to ask for more utility coordination and collaboration with community groups because they are connected to a wide variety of small and diverse businesses. The CBOs are likely able to identify potentially competitive businesses and help channel them to certification, training, and into position to submit qualifying bids for contracts. **Failure to reach out and work with these groups is simply a waste of valuable resources.**”

(Proposed Decision, p. 27 [emphasis added].)

The Chambers assert that amending GO 156 to include the focused outreach requirements set forth in SB 1045, which are already followed by state departments and agencies, is a common sense way to facilitate collaboration between the Utilities and the CBOs. Additionally, these outreach measures have the added benefit of bolstering awareness of Utility contracting opportunities within WMDVBE communities.

Specifically, SB 1045 (2002), codified in Government Code sections 11139.6, 11139.7, and 11139.8, again requires:

- (1) Invitations to bid distributed to local small business and trade associations and chambers of commerce, including ethnic chambers of commerce, and other business and professional associations, including professional minority, women, and disabled veteran-owned business and professional groups and associations, as appropriate.
- (2) Publication of advertising concerning contracting and procurement opportunities in trade papers and other publications focusing on small business enterprises, including print and online publications and newspapers in languages other than English and those whose primary readership is minority, women, or disabled veteran-owned businesses.

(3) Outreach to local small business and trade associations and chambers of commerce, including ethnic chambers of commerce, and other business and professional associations, including professional minority, women, and disabled veteran-owned business and professional groups and associations, as appropriate.

(See Gov. Code, § 11139.7.)

The Chambers believe that adding this outreach requirement to GO 156 will serve as a practical method for increasing collaboration between the Utilities and the CBOs, and therefore propose the amendment attached as **Exhibit 3**.

### CONCLUSION

The Chambers believe that amending the Proposed Decision to include the recommendations included herein is necessary to improve upon the status quo and bring real change to the GO 156 program.

Respectfully submitted,

\_\_\_\_\_/S/  
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# EXHIBIT 1

# MEMORANDUM OF UNDERSTANDING

## I. INTRODUCTION

This Memorandum of Understanding (“MOU”) between the Public Service Commission of Maryland (“Commission”) and Verizon Maryland Inc. (“Company” or “Utility”) memorializes the understanding that the Utility voluntarily will develop, implement and consistently report on its activities and accomplishments in promoting a strategy designed to create viable and prosperous women, minority, and service-disabled-veteran-owned business enterprises (“Diverse Suppliers”) by providing them with the maximum opportunity to participate in and compete for contracts and subcontracts in the Utility’s supply chain for goods and services that support the Utility and to encourage and assist, when reasonable, its Prime Contractors to develop plans to increase the utilization of Diverse Suppliers as Subcontractors. The Utility’s activities shall be conducted consistent with reasonable and competitive procurement practices and consistent with the Utility’s primary public service obligation to ensure that utility services are provided to the ratepayers in the state of Maryland at just and reasonable rates.

The goal of the Utility shall be to award 25% of the Utility’s total dollar spend for Company contracts, subcontracts, and purchase orders for products and services governed by this MOU to Diverse Suppliers. While the Commission and the Utility acknowledge that this is an aggressive goal and that no specific timetable is set to accomplish this goal, the Utility commits to using its best efforts to meet the 25% goal. The Commission and the Utility anticipate that the Utility will consistently work towards this goal; however the Commission and the Utility recognize that progress towards the goal is dependent upon, and affected by, the availability of competitive Diverse

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Suppliers. The Commission and the Utility agree that in its efforts to achieve its Diverse Supplier objectives, the Utility shall not be limited to Maryland based Diverse Suppliers.

To implement this strategy, the Company will develop and implement procedures and reporting requirements consistent with this MOU to ensure that Diverse Suppliers have the maximum opportunity to compete for the Utility's contracts and subcontracts for the purchase of all goods and services governed by this MOU, including, but not limited to, equipment, supplies, materials, construction ventures, legal, accounting and financial services, technology-related research and development, testing, and other procurable goods and services and to encourage and assist, where reasonable, its Prime Contractors to develop plans to increase the utilization of Diverse Suppliers as Subcontractors. This MOU supersedes and replaces, in its entirety, any and all memoranda previously executed by the Utility and the Commission regarding this matter and is applicable until amended, terminated, or replaced by a new MOU or state or federal law.

Through this MOU, the Utility renews its commitment to facilitate contracting opportunities for Diverse Suppliers. The Company agrees to review both its existing procurement and Diverse Supplier procurement programs on an annual basis, and, where needed, modify its programs and inform the Diverse Supplier community of changes in a timely fashion, with the goal of further ensuring that Diverse Suppliers will have the maximum opportunity to participate and succeed in the competition for contracts for goods and services. Finally, the Utility and the Commission agree that this MOU may be revised from time to time, with the consent of both parties, as experience is gained in its application.

# MEMORANDUM OF UNDERSTANDING

## II. STANDARDS

### 1. General

1.1. Intent 1.1.1. Economic Impact. This MOU shall not be used to require Diverse Suppliers to accept contractual provisions at wages for the Diverse Suppliers' employees that are less than the prevailing wage for the type of service provided. Similarly, this MOU shall not be used to require the Utility to accept anything other than the lowest qualified bid.

1.1.2. Revisions of Scope-This MOU may be revised on the basis of experience gained in its application and/or changes in legislation. Either the Utility or the Commission Staff may petition the Commission for the purpose of amending this MOU. Any such petition shall clearly set forth the changes proposed and the supporting rationale.

### 1.2. Definitions

1.2.1. "Certification" means the determination that a legal entity is a

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woman, minority, or service-disabled-veteran-owned business enterprise.

- 1.2.2. “Certified Diverse Supplier” means a Diverse Supplier that holds a Certification.
- 1.2.3. “Commission” means the Public Service Commission of Maryland as provided for in the Public Utilities Companies Article of the Maryland Code.
- 1.2.4. “Complaint” means a written objection (including an objection sent to a designated web page or email address used exclusively for the purpose of receiving such complaints), either to a decision not to utilize a Diverse Supplier or to a Diverse Supplier’s treatment once it is selected by the Utility to perform a contract, which is directed to the Utility’s executives or is referred to the Utility by the Commission.
- 1.2.5. "Control" means exercising the power to make policy decisions.
- 1.2.6.a “Diverse Supplier” means any legal entity that is:
- (i) organized to engage in commercial transactions;
  - (ii) at least 51% owned and Controlled by one or more individuals who are Socially and Economically Disadvantaged; and
  - (iii) managed by, and the daily business operations of which

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- are Controlled by, one or more of the Socially and Economically Disadvantaged Individuals who own it.
- 1.2.6.b “Diverse Supplier” includes a not for profit entity organized to promote the interests of physically or mentally disabled individuals.
- 1.2.7. “Economically Disadvantaged Individual” means a Socially Disadvantaged Individual whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially disadvantaged.
- 1.2.8. "Goal" means a target which, when achieved, indicates progress in a preferred direction. A Goal is neither a quota nor a set aside.
- 1.2.9. "Long-term Goal" means a Goal applicable to a period of five (5) years.
- 1.2.10. "Mid-term Goal" means a Goal applicable to a period of three (3) years.
- 1.2.11. “Minority Business Enterprise” means that subset of Diverse Suppliers that are owned, Controlled, and managed by individuals included in Section 1.2.17(i)(1) -(4).
- 1.2.12. “NAICS Codes” means the North American Industry Classification System. For purposes of this MOU, the Utility

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has agreed to utilize the three-digit NAICS Codes.

- 1.2.13. "Operate" means being actively involved in the day-to-day management and not merely acting as officers or directors.
- 1.2.14. "Prime Contractor" means any party or person (who is not an employee of the Utility) who enters into any agreement or arrangement with a Utility for the furnishing of supplies or services for the use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more contracts.
- 1.2.15. "Service Disabled Veteran Business Enterprise" means that subset of Diverse Suppliers that are owned, Controlled, and managed by individuals included in Section 1.2.17(i)(5).
- 1.2.16. "Short-term Goal" means a Goal applicable to a period of one (1) year.
- 1.2.17. "Socially and Economically Disadvantaged Individual" means a citizen or lawfully admitted permanent resident of the United States who is:
- (i) in any of the following minority groups:
1. African-American – an individual having origins in any of the black racial groups of Africa;
  2. American Indian/Native American – an individual having origins in any of the original peoples of North

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America and who is a documented member of a North American tribe, band, or otherwise has a special relationship with the United States or a state through treaty, agreement, or some other form of recognition. This includes an individual who claims to be an American Indian/Native American and who is regarded as such by the American Indian/Native American community of which the individual claims to be a part, but does not include an individual of Eskimo and Aleutian origin;

3. Asian – an individual having origins in the Far East, Southeast Asia, or the Indian subcontinent, and who is regarded as such by the community of which the person claims to be a part;

4. Hispanic – an individual of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race, and who is regarded as such by the community of which the person claims to be a part;

5. Service Disabled Veteran: A veteran who possesses a disability rating letter issued by the Department of Veterans Affairs, establishing a service-connected rating between 0 and 100% or a disability determination from the Department of Defense; or

## MEMORANDUM OF UNDERSTANDING

6. Women – a woman, regardless of race or ethnicity; or
- (ii) otherwise found by a Third Party Certifying Agent to be a Socially and Economically Disadvantaged Individual.
- 1.2.18. “Socially Disadvantaged Individual” means an individual who has been subjected to racial or ethnic prejudice or cultural bias within American society because of membership in a group and without regard to individual qualities. Social disadvantage must stem from circumstances beyond the control of the individual and is based on racial, ethnic, gender, religious or other orientation.
- 1.2.19. “Subcontractor” means any party or person (who is not an employee of the Prime Contractor) who enters into any agreement or arrangement with a Prime Contractor:
- (i) For the furnishing of supplies or services for the use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more contracts; or
- (ii) Under which any portion of the Prime Contractor's obligation under any one or more contracts is performed, undertaken or assumed.

## MEMORANDUM OF UNDERSTANDING

- 1.2.20. "Third-Party Certification" means Certification by a Third Party Certifying Agent.
- 1.2.21. "Third-Party Certifying Agent" means an entity that is included on the list maintained by the Commission pursuant to Section 2 of this MOU.
- 1.2.22. "Women Business Enterprise" means that subset of Diverse Suppliers that are owned, Controlled, and managed by individuals included in Section 1.2.17(i)(6).

### **2. Certification**

- 2.1 The Commission shall establish and maintain a list of Third-Party Certifying Agents, which initial list is attached hereto as Schedule 2. In the event that the Utility wishes to propose an additional Third Party Certifying Agent to be added to this list, it shall submit the entity to the Commission, which shall determine whether to add the entity to said list. The Commission shall maintain the list on its website, so that any person may obtain the list of Commission-approved Third-Party Certifying Agents.
- 2.2 Except as provided by Section 2.2.1, 2.2.2 and 2.2.3, in order to qualify as a Diverse Supplier for purposes of this MOU, the Diverse Supplier must be certified by one of the Third Party Certifying Agents specified in Section 2.1. If the Commission includes more than one Third Party Certifying Agent on the list maintained pursuant to Section 2.1, the

## MEMORANDUM OF UNDERSTANDING

Diverse Supplier need only obtain Certification from one of the Third Party Certifying Agents in order to be a Certified Diverse Supplier for purposes of this MOU.

2.2.1 A business enterprise that has not obtained Certification from a Third Party Certifying Agent pursuant to Section 2.1 shall qualify as a Certified Diverse Supplier, provided that it certifies to the Utility, in writing and under penalties of perjury, that it meets the definition of a Diverse Supplier. Unless Section 2.2.2 applies, this exemption from the requirements of Section 2.1 shall be limited to one year from the date of execution of the MOU, or the date of the first invoiced spend, whichever occurs later.

2.2.2 A business enterprise that receives less than \$25,000 in annual gross revenues from the Utility that has not obtained Certification from a Third Party Certifying Agent pursuant to Section 2.1 shall qualify as a Certified Diverse Supplier, provided that it certifies to the Utility, in writing and under penalties of perjury, that it meets the definition of a Diverse Supplier.

2.2.3 A business enterprise that seeks to qualify as a Diverse Supplier pursuant to Section 1.2.6b shall qualify as a Certified Diverse Supplier, provided that it certifies to the Utility and under penalties of perjury, that it meets the definition outlined in Section 1.2.6b.

## MEMORANDUM OF UNDERSTANDING

- 2.3 In assessing the suitability of a Diverse Supplier to bid for procurement contracts, the Utility may require additional information or the completion of additional forms to comply with specific requirements created by the unique character of its business, such as insurance requirements, product and service codes, bonding limits, and so on. Additionally, the Utility may specify that it will only accept Certification from a specific Third Party Certifying Agent.
- 2.4 A Third-Party Certifying Agent auditing and verification program shall preclude the need for the Utility to audit and verify the status of the Diverse Suppliers it does business with.

### 3. Utility Implementation

The Utility's Diverse Supplier program shall be designed to ensure that Diverse Suppliers are encouraged to become potential suppliers of products and services to the Utility subject to this MOU. Nothing in this MOU requires the Utility to utilize set-asides, preferences, or quotas.

#### 3.1. Internal Utility Program Development

The Utility shall maintain a staff to provide overall Diverse Supplier program direction and guidance and to implement Diverse Supplier program requirements.

#### 3.2. External Outreach

The Utility shall implement an outreach program to inform and recruit Diverse Suppliers to apply for procurement contracts.

## MEMORANDUM OF UNDERSTANDING

3.2.1. The outreach activities depend on the Utility's size, service territory, and specific lines of business. However, the Utility shall at a minimum:

- (1) Actively seek out opportunities to identify Diverse Supplier contractors and to expand Diverse Supplier source pools.
- (2) Actively support the efforts of organizations experienced in the field who promote the interests of Diverse Supplier contractors such as the National Minority Supplier Development Council, the Women's Business Enterprise National Council, the United States Hispanic Chamber of Commerce, the United States Black Chamber of Commerce, the Small Business Administration, the United States Pan-Asian Chamber of Commerce, and others.
- (3) Work with Diverse Supplier contractors to facilitate contracting relationships by explaining Utility qualification requirements, bid and contracting procedures, materials requirements, invoicing and payment schedules, and other procurement practices and procedures.
- (4) At the request of any unsuccessful Diverse Supplier

## MEMORANDUM OF UNDERSTANDING

bidder, provide general information concerning the range of differences between the Diverse Supplier contractor's bid as contrasted with the successful bid. Information on additional selection criteria, such as warranty periods, maintenance costs, and delivery capability, shall be provided when requested if disclosure would not violate the proprietary nature of the specific contract element. The Utility need not provide this information in the event that only two companies (including the Diverse Supplier) bid on the contract.

- (5) To the extent possible, make available to Diverse Supplier contractors lists of Utility purchase/contract categories which offer them the best opportunity for success.
- (6) When efficient or cost-effective, encourage employees involved in submitting specifications for Company procurements to unbundle and break apart purchases and contracts to accommodate the inclusion of Diverse Suppliers based on their capabilities.
- (7) Summarize the Company's Diverse Supplier Program in the Company's outreach and marketing program

## MEMORANDUM OF UNDERSTANDING

literature submitted to vendors and the business community. Such summaries shall state that the Diverse Supplier will be furnished a complete copy of this MOU upon request. Such summaries shall encourage the participation of Diverse Suppliers as Prime Contractors and Subcontractors, where appropriate.

- (8) The Utility shall encourage all Prime Contractors to develop and maintain relationships with Diverse Supplier Subcontractors.
- (9) The Utility shall encourage cooperation between non-Diverse Supplier and Diverse Supplier contractors.
- (10) The Utility shall work to maximize the retention of Diverse Supplier contractors so that the Utility's procurement planning and supply chain management program articulates the Goal of building sustainable and reliable service delivery by the Diverse Supplier to the Utility or the Prime Contractor for the life of the contract.

## MEMORANDUM OF UNDERSTANDING

### 3.3. Subcontracting Program

The Utility shall establish and maintain a subcontracting program for the purpose of encouraging its Prime Contractors to utilize Diverse Supplier Subcontractors.

3.3.1. The subcontracting program shall serve as an enhancement to, and not as a replacement for, the Utility's Diverse Supplier Prime Contractor outreach program.

3.3.2. The subcontracting program shall apply to the following:

- (1) Purchases/contracts exceeding \$550,000 for products and services;
- (2) Construction contracts exceeding \$1,000,000; and
- (3) Purchases/contracts which offer Diverse Supplier subcontracting opportunities, regardless of value, when deemed appropriate by the Utility.

3.3.3. The subcontracting program may be applied to the procurement of products manufactured for general consumption, such as paper, pens, and the like.

3.3.4. The Utility shall encourage and assist, where reasonable, its Prime Contractors to develop plans to increase the utilization of Diverse Suppliers as Subcontractors. Prime Contractors

## MEMORANDUM OF UNDERSTANDING

shall submit to the Utility plans that include Goals for the utilization of Diverse Suppliers as Subcontractors. These plans may be incorporated into the contract between the Utility and the Prime Contractor.

3.3.5. The Utility is encouraged to incorporate in all purchase orders, requests for bid proposals, and other appropriate procurement documents related to procurement efforts subject to the subcontracting program, a statement similar to the following:

(1) It is the policy of the Utility that Diverse Suppliers shall have the maximum practicable opportunity to participate in the performance of contracts. However, this policy shall not be used to exclude qualified non-Diverse Suppliers from participating in Utility contracting.

(2) The awarded Prime Contractor shall agree to use his or her best efforts to carry out this policy in the award of subcontracts to the fullest extent consistent with the efficient performance of this contract.

3.3.6. The Utility is encouraged to inform suppliers of products and services that suppliers' good faith efforts to subcontract with Diverse Suppliers may be a factor that may be

## MEMORANDUM OF UNDERSTANDING

considered in the bid evaluation process. A statement to that effect may be included in all appropriate procurement documents.

3.3.7. The Utility shall include in its annual plan a description of future plans for encouraging Prime Contractors to engage Diverse Supplier Subcontractors in all procurement categories covered by this MOU which provide subcontracting opportunities.

3.3.8. The Utility shall include (as a separate category) spend with Diverse Supplier Subcontractors in its Annual Report.

#### 4. **Diverse Supplier Complaint Process**

4.1 The Utility shall maintain a process for receiving and reviewing Diverse Supplier procurement-related Complaints.

4.2. The Commission notes that it does not exercise jurisdiction over the Diverse Supplier procurement-related Complaints.

#### 5. **Goals**

5.1 The Utility shall set substantial and verifiable Short-Term, Mid-Term, and Long-Term Goals for the utilization of Diverse Suppliers, keeping in mind that the Goal of this MOU is to facilitate and encourage the award of 25% to Diverse Suppliers of the total dollars spent on all Utility contracts, subcontracts and purchase orders covered by this MOU. This goal-setting process shall include specific goals for Minority Business Enterprises,

## MEMORANDUM OF UNDERSTANDING

Women Business Enterprises, Service Disabled Veteran Enterprises and Not for Profit Workshops (under Section 1.2.6b).

5.1.1 The Utility and the Commission agree that natural gas procurement shall not be subject to the same Goals that are articulated by the Utility pursuant to Section 5.1. However, the Utility shall set substantial and verifiable Short-Term, Mid-Term, and Long-Term Goals for the utilization of Diverse Suppliers for natural gas procurement.

5.1.2 When establishing initial minimum Long-Term Goals for the Utility's purchases of goods and services covered by this MOU, the Utility shall include not less than 56 % of the Long-Term Goal for Minority Business Enterprises, not less than 32 % of the Long-Term Goal for Women Business Enterprises, and not less than 12 % of the Long-Term Goal for Service Disabled Veteran Business Enterprises.

5.2. The Utility shall consider the following factors in setting its Goals:

- 5.2.1. Total Utility purchasing and/or contracting projections;
- 5.2.2. Availability of Diverse Suppliers and competitiveness throughout the Utility's service territory and the United States;
- 5.2.3. Market dynamics based on historical data and trends;
- 5.2.4. Other appropriate factors which would increase the Diverse Suppliers' share of Utility business.

## MEMORANDUM OF UNDERSTANDING

- 5.3. The specification of initial Long-Term Goals in this section shall not prevent the Utility from seeking to reach the goals set by public agencies, which may establish objectives based upon the demographic composition of specific localities.
- 5.4. A Utility may only exclude those products and services, and the corresponding expenditures, contained on Schedule 1 to this MOU, from its total amount of dollars spent on procurement. Goods and services are included on Schedule 1 because they are non-sourceable, are subject to a regulated purchase process, or because the Utility has otherwise persuaded the Commission that it is appropriate to include those goods and services on Schedule 1.
- 5.4.1 Future proposed additions to Schedule 1 shall be made by the Utility and included at the Commission's discretion.
- 5.4.2 Annually, the Utility and the Commission shall review Schedule 1, for the express purpose of determining whether any of the goods and services should be removed from Schedule 1.
- 5.4.3 The Utility may exclude from its total amount of dollars spent on procurement any dollars spent on contracts in effect at the time of the execution of this MOU that have a remaining term of two or more years.

## MEMORANDUM OF UNDERSTANDING

- 5.5 In the event that the Utility purchases goods and services from its affiliates (which purchases are not included on Schedule 1), the Utility shall encourage the affiliate to establish an appropriate subcontracting program where such affiliate employs Subcontractors. In its annual report to the Commission, the Utility must state whether the affiliates have established a subcontracting program.
- 5.6 Overall program Goals shall be expressed in dollar amounts and as a percentage of total dollars spent by the Utility on goods and services covered by this MOU.
- 5.7 The Utility shall make special efforts to increase utilization and encourage entry into the marketplace of Diverse Suppliers in product or service categories where there has been low utilization of Diverse Suppliers, such as legal and financial services, and areas that are considered technical in nature.
- 5.8 No penalty shall be imposed for failure of the Utility to meet and/or exceed Goals.
- 5.9 The Utility shall report its Goals in its annual plan.

### **6. Annual Report**

- 6.1 The Utility shall file its Annual Report on its Diverse Suppliers Program on the Commission's Executive Secretary, by March 31 of each year, beginning in 2010.

## MEMORANDUM OF UNDERSTANDING

- 6.2. The Annual Report shall contain at least the following elements:
- 6.2.1. A description of Diverse Supplier program activities engaged in during the previous calendar year. This description shall include both internal and external activities.
- 6.2.2. a. An overall summary of total Diverse Supplier spend, with breakdowns by socially disadvantaged group, compared with total Utility dollars spent on goods and services covered by this MOU. See Attachment A-1 (Socially Disadvantaged Groups).
- b. A summary of total Diverse Supplier spend by NAICS Code, with breakdowns by socially disadvantaged groups within each NAICS Code, compared with total Utility dollars spent within that NAICS Code on goods and services covered by this MOU. See Attachment A-2 (NAICS Codes).
- c. A comparison of (1) the percentage of dollars spent with Minority Business Enterprises, Women Business Enterprises, and Service Disabled Veteran Enterprises compared with total Utility dollars spent on goods and services covered by this MOU with (2) the Goals for each type of business enterprise set pursuant to Section 5.1. See Attachment A-3 (Goal Comparison).

## MEMORANDUM OF UNDERSTANDING

d. Throughout this MOU, the Utility shall report its spend, such that each dollar spent may only be reported, and counted towards the goal, once. For example, dollars spent with minority women-owned business enterprises can be reported and counted toward either the minority-owned business enterprise Goal or the women-owned business enterprise Goal, but not toward both. Similarly, dollars spent with service disabled veteran business enterprises can be reported and counted either as service disabled veteran business enterprise procurement or the appropriate women or minority business enterprise Goal, but not toward both.

6.2.3. An itemization of Diverse Supplier program expenses including salaries, outreach, etc., compared with total Utility dollars spent on general and administrative expenses. See Attachment B (Program Expenses). The salary information contained in Attachment B may be filed with the Commission confidentially.

6.2.4. A description of progress in meeting or exceeding set Goals and an explanation of any circumstances that may have caused the Utility to fall short of its Goals. The Utility shall include a comprehensive discussion and detailed description of any efforts made to recruit Diverse Suppliers of products or

## MEMORANDUM OF UNDERSTANDING

services in areas that are traditionally underserved by Diverse Suppliers. The Utility may also explain in detail in its annual report how its ability to meet its Diverse Supplier Goals are affected because Diverse Suppliers capable of supplying certain products and services are unavailable or uncompetitive.

- 6.2.5. A description of Prime Contractor utilization of Diverse Supplier Subcontractors.
- 6.2.6. A list of Diverse Supplier procurement-related Complaints received during the past year, accompanied by a brief description of the nature of each Complaint and its resolution or current status.  
  
See Attachment C (Complaints).
- 6.2.7. A discussion of the Utility's review process for addressing Complaints.
- 6.2.8. A list identifying each Diverse Supplier that received payment for contract service for the reporting year, the NAICS Code(s) for the services provided, and the dollar amount paid to the vendor for the reporting year. If the Diverse Supplier is certified pursuant to Sections 2.2.1, 2.2.2, or 2.2.3, that should be indicated, along with the

## MEMORANDUM OF UNDERSTANDING

relevant Section under which the certification is effective and the date, if relevant, that the certification became effective. Attachment D may be filed confidentially with the Commission.

See Attachment D (Vendor List).

- 6.2.9. A description of any efforts made to recruit Diverse Suppliers of products or services in NAICS Code categories where Diverse Supplier utilization has been low, such as legal, accounting, auditing, underwriting, technology, testing, research and development, construction, demolition, financial services, and other ventures areas that are considered highly technical in nature.
- 6.2.10. Utilities shall retain all documents and data they rely on in preparing their Diverse Supplier annual report for the longer of either three years or in conformance with the utilities' individual document retention policies, and shall provide these documents and data to the Commission upon request.
- 6.3. This MOU is not intended to permit erosion of Diverse Supplier programs and reporting presently engaged in by the Utility.
- 6.4. Nothing in this MOU shall prohibit the Utility from breaking down specific categories further than presently required (for example, reporting dollars spent with Filipino Americans separately from those

## MEMORANDUM OF UNDERSTANDING

spent with Asian Pacific Americans, or reporting male and female results within minority-owned classifications).

- 6.5 On August 17, 2009, the Utility shall file an Interim Report on its Diverse Supplier Program on the Commission's Executive Secretary. The Interim Report shall provide an overall summary of total Diverse Supplier purchases, with breakdowns by socially disadvantaged grouping, compared with total Utility dollars spent on goods and services covered by this MOU, for the period from January 1, 2009 through June 30, 2009. See Attachment F (Interim Report). The Interim Report shall also include a discussion of the Utility's progress in tracking its spending with Diverse Suppliers under this MOU, as well as any problems it is encountering, or anticipates encountering, with filing its Annual Report or its Annual Plan.

### 7. **Annual Plan**

The Utility shall file its Annual Plan, as described in this Section 7, on the Commission's Executive Secretary, forty-five (45) days following the beginning of its fiscal year, beginning in 2009.

- 7.1. The Annual Plan shall contain at least the following elements:
- 7.1.1. Short, Mid, and Long Term Goals set as required by Section 5, *supra*;  
See Attachment E-1 Short Term  
See Attachment E-2 Mid Term  
See Attachment E-3 Long Term

## MEMORANDUM OF UNDERSTANDING

- 7.1.2. A description of Diverse Supplier program activities planned for the next calendar year. This description shall include both internal and external activities;
- 7.1.3. Plans for recruiting Diverse Suppliers of products or services where Diverse Supplier utilization has been low, such as legal and financial services, and areas that are considered highly technical in nature.
- 7.1.4a. Plans for seeking and or recruiting Diverse Suppliers through efforts such as small business incubators for products or services that are traditionally underutilized.
- 7. 1.4b Plans for seeking and or recruiting Diverse Suppliers of products or services where Diverse Suppliers are currently unavailable.
- 7.1.5 Plans for encouraging Prime Contractors to engage Diverse Suppliers in subcontracts in all categories which provide subcontracting opportunities.
- 7.1.6. Plans for complying with the Diverse Supplier program guidelines established by the Commission. The Commission's Staff will be responsible for developing, periodically refining, and recommending such guidelines for the Commission's adoption in an appropriate procedural forum.

## MEMORANDUM OF UNDERSTANDING

7.2 If the Utility achieves 25% of the total dollar spend for Company contracts, subcontracts, and purchase orders for products and services governed by this MOU by 2012, then for every year in which it continues to achieve at least 25%, it shall no longer be required to file an Annual Plan for the subsequent year. If the Utility falls below 25% of the total dollar spend for Company contracts, subcontracts, and purchase orders for products and services governed by this MOU, then it shall be required to file an Annual Plan for the following year.

### **8. Review; Report; Public Hearing**

8.1. The Commission's Office of External Relations ("OER"), in conjunction with the Commission's Technical Staff (collectively, with OER, the "Staff"), may review the Utility's Diverse Supplier Annual Report and Annual Plan not more than two years after the report is filed. Upon the request of the Staff, the Utility shall make available all source documents and reports used and relied upon in the production of the filed annual reports and answer all inquiries regarding its filed reports. Upon completion of the review, a draft report of findings will be issued to the Utility. Within 30 days of issuance of the draft report, a response is due from the Utility.

8.2 Within 10 days of receipt of the Utility's response, Staff will finalize its report and file it with the Commission. In this report, Staff shall summarize the Utility's results and Goals for the applicable period as

## **MEMORANDUM OF UNDERSTANDING**

well as the Utility's compliance with the MOU. The report will also include findings of the completed Diverse Supplier review.

8.3. Following issuance of Report, the Commission may hold public hearings on the Utility's Annual Report and Annual Plan.

### **9. Jurisdiction and Authority**

The Utility has entered into this MOU voluntarily. Nothing herein will be construed as bestowing jurisdiction, not otherwise conferred by applicable law, upon the Commission in those subject areas encompassed by the MOU; nor will the signing of this MOU constitute or be construed as a waiver of the Utility's right to legally challenge the Commission's jurisdiction or statutory authority in the future should the Commission assert such jurisdiction or authority over the subject matter herein.

### **10. No Additional or Private Rights Created**

Nothing herein will be construed as creating, either directly or indirectly, a private right or remedy for any person not a party to this MOU. Furthermore, nothing herein will be construed as creating or imposing either directly or indirectly upon any party to this MOU, a legal or contractual duty or obligation not otherwise imposed by existing law.

### **11. Termination**

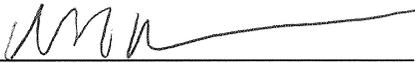
As the Commission and the Utility have entered into this MOU voluntarily, either the Commission or the Utility may terminate this MOU at any time by providing written notice of such termination to the other. Notwithstanding any such termination of the MOU, if the Commission or the Utility obtained

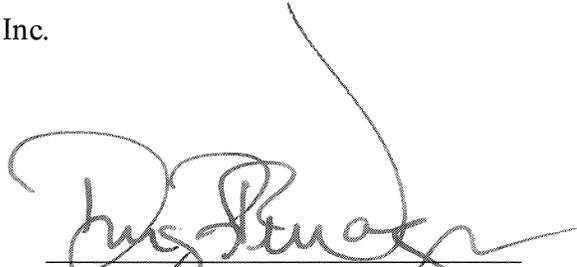
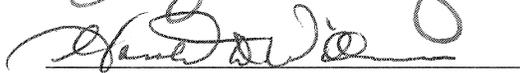
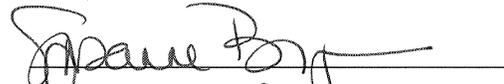
## MEMORANDUM OF UNDERSTANDING

any confidential or otherwise proprietary information from the other through any process facilitated by the MOU prior to its termination, then the Commission or the Utility shall continue to preserve the confidentiality and proprietary nature of such information following the termination to the same extent as if the MOU had not been terminated.

### 12. Signatures

This Memorandum of Understanding is entered into this 6<sup>th</sup> day of February, 2009, by the undersigned on behalf of the Maryland Public Service Commission and Verizon Maryland Inc.

  
\_\_\_\_\_  
William R. Roberts  
President  
Verizon Maryland Inc.

  
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\_\_\_\_\_  
Commissioners  
Maryland Public Service  
Commission

## Schedule 1

### **Non-sourceable Spend Categories:**

Board of Director's fees  
Employee medical benefits  
Employee tuition aid benefits  
Employee benefits, other  
Employee garnishments  
Employee payroll  
Employee reimbursements  
Claims  
Contributions  
Electric power interchange  
Energy rebates  
Organization membership dues  
Philanthropic contributions  
Tax payments, all  
Utilities, telephone, electricity, water  
Voucher transfers  
Business travel expenses  
Permits and fees  
Freight charges on invoices  
Payments to government entities  
Pipeline transmission  
Purchases from affiliates  
Natural gas capacity contracts  
Dividend payments  
Payments to subsidiary operations  
Rail Transportation  
Standard Offer Service Procurement  
Purchase or lease of real property  
Purchase of carbon credits  
Network access or other communications intercarrier compensation (any mode)

Schedule 2

STATE/ ASSOCIATION	CERTIFYING ORGANIZATION
Alabama	State of Alabama
Alabama	Birmingham Airport Authority
Alabama	South Regions Minority Business Council
Alaska	Alaska DOT
Arizona	State of Arizona
Arizona	City of Phoenix
Arizona	City of Tucson
Arizona	Arizona DOT
Arizona	Grand Canyon Minority Supplier Development Council
Arkansas	Arkansas DOT
Arkansas	State of Arkansas
Arkansas	Arkansas Department of Economic Development
Arkansas	Arkansas Regional Minority Supplier Development Council
California	California San Francisco Bay Area Rapid Transit (BART)
California	City of San Francisco
California	Los Angeles County
California	City of Los Angeles
California	Caltrans (California Unified Certification Program)
California	California Public Utilities Commission (CPUC)
California	Southern California Metropolitan Transit Authority (MTA)
California	Department of General Services Certified Disabled Veteran Enterprises
California	Southern California Minority Business Development Council
California	Northern California Supplier Development Council
California	Greater San Diego Business Development Council
Colorado	Regional Transportation District
Colorado	Colorado DOT
Colorado	City and County of Denver
Colorado	Rocky Mountain Minority Supplier Development Council
Connecticut	Connecticut Department of Administrative Services (DAS)
Connecticut	Connecticut DOT

Schedule 2

Connecticut	Connecticut Minority Supplier Development Council
Delaware	State of Delaware
Delaware	City of Wilmington
Florida	Miami-Dade County
Florida	City of Miami
Florida	State of Florida
Florida	South Florida Water Management District
Florida	City of Ft. Lauderdale
Florida	City of Tampa
Florida	Orange County
Florida	Duval County School District
Florida	Hillsborough County
Florida	Hillsborough County Aviation Authority at Tampa Airport
Florida	City of Tallahassee
Florida	City of Orlando
Florida	Greater Orlando Aviation Authority
Florida	Jacksonville Transportation Authority
Florida	Jacksonville Electric Authority
Florida	Jacksonville Port Authority
Florida	City of Jacksonville
Florida	Florida DOT
Florida	Florida Regional Minority Business Council (Miami)
Florida	Florida Minority Supplier Development Council (Orlando)
Florida	School Board of Broward County
Florida	Broward County
Florida	Alachua County
Florida	City of Jacksonville
Florida	Leon County
Florida	Palm Beach County
Florida	City of St. Petersburg
Georgia	Georgia DOT
Georgia	City of Atlanta

## Schedule 2

Georgia	State of Georgia
Georgia	Fulton County
Georgia	Metropolitan Area Rapid Transit Authority (MARTA)
Georgia	Georgia Minority Supplier Development Council
Hawaii	Hawaii DOT
Idaho	Idaho DOT
Illinois	Chicago Minority Business Development Council
Illinois	State of Illinois (CMS)
Illinois	City of Chicago
Illinois	Cook County
Illinois	Chicago Transit Authority
Illinois	Pace Bus
Illinois	Illinois DOT
Indiana	City of Indianapolis
Indiana	State of Indiana
Indiana	City of Ft. Wayne
Indiana	Indiana Regional Minority Supplier Development Council
Iowa	Iowa DOT
Kansas	Kansas DOT
Kansas	Kansas Department of Commerce
Kentucky	City of Louisville
Kentucky	Commonwealth of Kentucky
Kentucky	Kentucky DOT
Louisiana	Louisiana/Dept. of Economic Development
Louisiana	Louisiana/Division of Small & Emerging Business Development
Louisiana	Louisiana Minority Business Council
Maine	Maine DOT
Maryland	Maryland DOT
Maryland	Anne Arundel County
Maryland	City of Baltimore
Maryland	Maryland/DC Minority Supplier Development Council
Massachusetts	Mass Housing

## Schedule 2

Massachusetts	State of Massachusetts (SOWMBA)
Massachusetts	City of Boston
Massachusetts	City of Cambridge
Massachusetts	New England Supplier Development Council
Michigan	City of Detroit
Michigan	County of Kalamazoo
Michigan	Washtenaw County
Michigan	Michigan Minority Business Development Council
Michigan	Michigan DOT
Minnesota	City of Minneapolis
Minnesota	Minnesota United Certification Program
Minnesota	State of Minnesota
Minnesota	Minnesota Minority Supplier Development Council
Mississippi	Mississippi DOT/Unified Certification Program
Missouri	State of Missouri
Missouri	Missouri DOT
Missouri	City of St. Louis
Missouri	City of Kansas City
Missouri	St. Louis Minority Business Council
Missouri	Kansas City Minority Supplier Council
Missouri	Metro
Montana	Montana DOT
Nebraska	State of Nebraska
Nebraska	Nebraska Department of Economic Development
Nebraska	Nebraska Department of Roads
Nebraska	Great Plains Minority Supplier Development Council
Nevada	Nevada DOT
Nevada	Airport Authority of Washoe County
Nevada	Nevada Minority Purchasing Council
New Hampshire	New Hampshire DOT
New Jersey	Port Authority of New York and New Jersey
New Jersey	New Jersey DOT

Schedule 2

New Mexico	New Mexico State Highway and Transportation Department
New York	Port Authority of New York and New Jersey
New York	Suffolk County Women's Business Coalition
New York	State of New York
New York	Erie County/City of Buffalo Joint Certification
New York	Niagara Frontier Transportation Authority
New York	City of New York
New York	City of Buffalo-Office of Urban Initiatives
New York	Metropolitan Transportation Authority
New York	New York DOT
New York	Minority Supplier Development Council of New York and New Jersey
New York	Upstate New York Regional Minority Purchasing Council
North Carolina	City of Durham
North Carolina	City of Raleigh
North Carolina	City of Charlotte
North Carolina	City of Greensboro
North Carolina	Cumberland County
North Carolina	North Carolina DOT
North Carolina	State of North Carolina
North Carolina	Raleigh-Durham Airport Authority
North Carolina	Ashville-Buncombe Office of Minority Affairs
North Carolina	Carolinas Minority Supplier Development Councils
North Dakota	North Dakota DOT
Ohio	State of Ohio
Ohio	City of Cleveland
Ohio	Ohio DOT
Ohio	City of Columbus
Ohio	City of Cincinnati
Ohio	Greater Cleveland Regional Transit Authority
Ohio	South Central Ohio Minority Business Council
Ohio	Northern Ohio Minority Business Council
Oklahoma	Oklahoma DOT

## Schedule 2

Oklahoma	Oklahoma Minority Supplier Development Council
Oregon	State of Oregon
Pennsylvania	Minority Supplier Development Council of PA-NJ-DE
Pennsylvania	Pittsburgh Regional Minority Purchasing Council
Pennsylvania	State of Pennsylvania
Pennsylvania	City of Philadelphia
Pennsylvania	Allegheny County
Pennsylvania	Pennsylvania DOT
Puerto Rico	Puerto Rico Supplier Development Council
Rhode Island	State of Rhode Island
SBA	SDB, 8A, HUB Zone, SDVet, Veteran (Pro-Net)
South Carolina	State of South Carolina
South Carolina	City of Charleston
South Carolina	South Carolina DOT
Tennessee	Tennessee DOT
Tennessee	Tennessee Minority Supplier Development Council
Texas	State of Texas HUB Program
Texas	North Central Texas Regional Certification Agency (NCTRCA)
Texas	City of Houston
Texas	City of Austin
Texas	City of Corpus Christi
Texas	Texas DOT
Texas	South Central Texas Regional Certification Agency (SCTRCA)
Texas	Dallas/Ft. Worth Minority Business Development Council
Texas	Houston Minority Business Council
Texas	Central & South Texas Minority Business Council
Utah	Utah DOT
Vermont	Vermont DOT
Virginia	Commonwealth of Virginia
Virginia	Virginia DOT
Virginia	City of Newport News
Virginia	City of Richmond

Schedule 2

Virginia	City of Hampton
Virginia	Virginia Minority Supplier Development Council
Washington	State of Washington
Washington	Northwest Minority Business Council
Washington D.C.	Washington Metropolitan Area Transit Authority
Washington D.C.	Washington Metro Airport Authority
West Virginia	State of West Virginia
Wisconsin	Milwaukee County
Wisconsin	Dept. of Administration/Dept. of Commerce
Wisconsin	City of Milwaukee
Wisconsin	Wisconsin DOT
Wisconsin	City of Madison
Wisconsin	Dane County
Wisconsin	Wisconsin Supplier Development Council
NMSDC	National Minority Supplier Development Council
WBENC	Women's Business Enterprise National Council
ASDV	Association for Service Disabled Veterans

Albany	City of Albany
ALDOT	Alabama Department of Transportation
Allegheny	Port of Allegheny County
Asheville	City of Asheville
Augusta	City of Augusta
CA Oakland	City of Oakland
CO OED	State of Colorado Office of Economic Development and International Trade
Contra Costa	Contra Costa County
CT DAS	State of Connecticut Department of Administrative Services
Cuyahoga	Cuyahoga County
DASNY	Dormitory Authority of the State of New York
DOTD	The State of Louisiana's Unified Certification Program
DRPA	Delaware River Port Authority
DTOP	Puerto Rico Highway and Transportation Authority
Evansville	Vanderburgh County/City of Evansville
Fort Worth	City of Fort Worth
Gainesville	City of Gainesville

## Schedule 2

Genesee	Genesee County
Grand Rapids	City of Grand Rapids
Greenville	Greenville County Schools Building Program
Hartford	City of Hartford
HBCU	Historically Black Colleges & Universities
Howard	Howard County
Iowa TSB	State of Iowa Targeted Small Business Certification Program
Kalamazoo	City of Kalamazoo
Knox	Knox County
LA MTA	Los Angeles County Metropolitan Transportation Authority
LCPA	Lee County Port Authority
Lee	Lee County
LouisvilleMetro	Louisville Metro
	Minnesota Department of Administration, Materials Management Division
MN MMD	
MRCC	Missouri UCP
MS MDA	Mississippi Development Authority
New Orleans	City of New Orleans
Newport News	Newport News
NGLCC	National Gay Lesbian Chamber of Commerce
NJ UCP	New Jersey UCP
NNABD	National Native American Business Directory
North Broward	The North Broward Hospital District
Oakland	Port of Oakland
OHDAS	Ohio DAS Equal Opportunity
Ohio UCP	Ohio UCP
Omaha	City of Omaha
	Washington State Office of Minority & Women's Business Enterprises
OMWBE	
	Oregon Office of Minority, Women, and Emerging Small Business
OMWESB	
OSDBU	Office of Small and Disadvantaged Business Utilization
	Missouri Office of Administration, Office of Supplier and Worker Diversity
OSWD	
PA UCP	PA Unified Certification
PADGS	Pennsylvania Department of General Service
Palm Beach	THE SCHOOL DISTRICT OF PALM BEACH COUNTY
PANYNJ	The Port Authority of New York and New Jersey
RI	RI.gov
RIDOT	Rhode Island Department of Transportation
Sacramento	City of Sacramento
Savannah	City of Savannah
SBA	Small Business Administration 8(a) Program
scminoritybusiness.net	scminoritybusiness.net
SDDOT	South Dakota Department of Transportation
SDLBD	District of Columbia

## Schedule 2

SEPTA	Southeastern Pennsylvania Transportation Authority
Shreveport	City of Shreveport
TN	Tennessee.gov
Tulsa	City of Tulsa
USDC	Utah Supplier Development Council
VA UCP	Virginia Unified Certification Program
VT DEC	Vermont Facilities Engineering Decision
WayneCounty	Wayne County,MI
Westchester	Westchester County
WIDOA	State of Wisconsin Department of Administration
Winston-Salem	City of Winston-Salem
WVSBDC	West Virginia Small Business Development Center
WYDOT	Wyoming Department of Transportation
VA	United States Department of Veteran's Affairs, Center for Veterans Enterprise

Public Service Commission of Maryland  
 Supplier Diversity Annual Report of  
 Socially Disadvantaged Groups  
 (MOU Sec. 6.2.2)

ATTACHMENT A-1													
UTILITY NAME:													
FOR THE REPORTING YEAR:													
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)						
LINE #	DESCRIPTION	DIRECT (\$)	SUB CONTRACT (\$)	DIVERSE SUPPLIER PROCUREMENT (\$)	PERCENTAGE OF DIVERSE SUPPLIER PROCUREMENT	TOTAL UTILITY PROCUREMENT (\$)	PERCENTAGE (%) OF DIVERSE SUPPLIER (\$ TO TOTAL UTILITY PROCUREMENT						
				COLS. (C) + (D)	\$ / TOTAL COL. (E)	Col. (E) / Col. G							
MINORITY BUSINESS ENTERPRISE													
1	AFRICAN-AMERICAN	\$0	\$0	\$0	0.00%		0.00%						
2	AMERICAN INDIAN/NATIVE AMERICAN	\$0	\$0	\$0	0.00%		0.00%						
3	ASIAN	\$0	\$0	\$0	0.00%		0.00%						
4	HISPANIC	\$0	\$0	\$0	0.00%		0.00%						
5	TOTAL MINORITY BUSINESS ENTERPRISE	\$0	\$0	\$0	0.00%		0.00%						
6													
7													
WOMEN BUSINESS ENTERPRISE													
8	WOMEN BUSINESS ENTERPRISE	\$0	\$0	\$0	0.00%		0.00%						
9													
SERVICE DISABLED VETERAN BE													
10	SERVICE DISABLED VETERAN BE	\$0	\$0	\$0	0.00%		0.00%						
11													
NOT FOR PROFIT WORKSHOPS													
12	NOT FOR PROFIT WORKSHOPS	\$0	\$0	\$0	0.00%		0.00%						
13													
14	GRAND TOTAL	\$0	\$0	\$0	0.00%	\$0	0.00%						



Public Service Commission of Maryland  
 Supplier Diversity Annual Report of  
 Goal Comparison  
 (MOU Sec. 6.2.2)

ATTACHMENT A-3		UTILITY NAME:	
		FOR THE REPORTING YEAR:	
(A)	(B)	(C)	(D)
LINE #	DESCRIPTION	CURRENT YEAR RESULTS (%)	CURRENT YEAR GOALS (%)
1	MINORITY BUSINESS ENTERPRISE	0.00%	0.00%
2			
3	WOMEN OWNED BUSINESS ENTERPRISE	0.00%	0.00%
4			
5	SERVICE DISABLED VETERAN BUSINESS ENTERPRISE	0.00%	0.00%
6			
7	NOT FOR PROFIT WORKSHOPS	0.00%	0.00%
8			
9	TOTAL	0.00%	0.00%

Public Service Commission of Maryland  
 Supplier Diversity Annual Report of  
 Program Expenses  
 (MOU Sec. 6.2.3)

ATTACHMENT B					
UTILITY NAME:					
FOR THE REPORTING YEAR:					
(A)	(B)	(C)	(D)	(E)	(F)
LINE #	EXPENSE CATEGORY	EXPENSE AMOUNT (\$)	PERCENTAGE TO TOTAL PROGRAM EXPENSES	TOTAL UTILITY SPEND ON GENERAL AND ADMINISTRATIVE EXPENSES	PERCENTAGE (\$) OF PROGRAM EXPENSES TO TOTAL UTILITY G&A EXPENSES
			Col. (C) / Total Col. (C)		Col. (C) / Total Col. (E)
1	Employee Salary Expenses	\$0	0.00%		0.00%
2	Other Employee Expenses	\$0	0.00%		0.00%
3	Program Expenses	\$0	0.00%		0.00%
4	Reporting Expenses	\$0	0.00%		0.00%
5	Training	\$0	0.00%		0.00%
6	Consultants	\$0	0.00%		0.00%
7	Other Program Expenses (List)	\$0	0.00%		0.00%
8		\$0	0.00%		0.00%
9		\$0	0.00%		0.00%
10		\$0	0.00%		0.00%
11		\$0	0.00%		0.00%
12		\$0	0.00%		0.00%
13		\$0	0.00%		0.00%
14		\$0	0.00%		0.00%
15	TOTAL EXPENSES	\$0	0.00%	\$0	0.00%

Public Service Commission of Maryland  
 Supplier Diversity Annual Report of  
 Complaints  
 (MOU Sec. 6.2.5)

ATTACHMENT C					
	UTILITY NAME:				
	FOR THE REPORTING YEAR:				
(A)	(B)	(C)	(D)	(E)	(F)
LINE #	NAME OF COMPANY	FILING DATE OF COMPLAINT	NATURE OF COMPLAINT	RESOLVED YES OR NO	IF NO, PLEASE PROVIDE CURRENT STATUS
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					

Public Service Commission of Maryland  
 Supplier Diversity Annual Report of  
 Vendor Contracts  
 (MOU Sec. 6.2.8)

ATTACHMENT D <sup>1</sup>		UTILITY NAME: FOR THE REPORTING YEAR:		(C)	(D)	(E)
(A)	(B)	(C)	(D)	(E)		
LINE #	VENDOR NAME	AMOUNT (\$)	NAICS CODE	SELF-CERTIFIED: YES (Y) or NO (N)		
1		\$0				
2		\$0				
3		\$0				
4		\$0				
5		\$0				
6		\$0				
7		\$0				
8		\$0				
9		\$0				
10		\$0				
11		\$0				
12		\$0				
13		\$0				
14		\$0				
15		\$0				
16		\$0				
17		\$0				
18		\$0				
19		\$0				
20		\$0				
21		\$0				
22		\$0				
23		\$0				
24		\$0				
25		\$0				
26	Total	\$0				
27						
28	Footnotes:					
29	1 To the extent that disclosure of the contract amount dollars applies to only one vendor,					
30	the Utility may confidentially report data for columns (B) through (E).					

Public Service Commission of Maryland  
 Supplier Diversity Annual Report of  
 Interim Report  
 (MOU Sec. 6.5)

ATTACHMENT F									
UTILITY NAME:									
INTERIM REPORTING FOR THE PERIOD ENDED:									
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)		
LINE #	DESCRIPTION	DIRECT (\$)	SUB CONTRACT (\$)	DIVERSE SUPPLIER PROCUREMENT (\$)	PERCENTAGE (%) OF DIVERSE SUPPLIER PROCUREMENT	TOTAL UTILITY PROCUREMENT (\$)	PERCENTAGE (%) OF DIVERSE SUPPLIER SPEND TO TOTAL UTILITY PROCUREMENT	Col. (E) Line Item / Col. (G) Total	
1	MINORITY BUSINESS ENTERPRISE	\$0	\$0	Col. (C) + (D) \$0	\$ / Total Col. (E) 0.00%			0.00%	
2									
3	WOMEN BUSINESS ENTERPRISE	\$0	\$0	\$0	0.00%			0.00%	
4									
5	SERVICE DISABLED VETERAN BE	\$0	\$0	\$0	0.00%			0.00%	
6									
7	NOT FOR PROFIT WORKSHOPS	\$0	\$0	\$0	0.00%			0.00%	
8									
9	TOTALS	\$0	\$0	\$0	0.00%	\$0		0.00%	\$0



Public Service Commission of Maryland  
 Supplier Diversity Annual Report of  
 Mid-Term Goals  
 (MOU Sec. 7.1)

ATTACHMENT E-2													
UTILITY NAME:													
FOR THE REPORTING YEAR:													
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)					
YEAR	MINORITY BUSINESS ENTERPRISE	WOMEN BUSINESS ENTERPRISE	SERVICE DISABLED VETERAN BUSINESS ENTERPRISE	NOT FOR PROFIT WORKSHOP	(\$) TOTAL	(%) TOTAL BY SPEND	TOTAL UTILITY PROCUREMENT (\$)	PERCENTAGE (%) OF DIVERSE SUPPLIER SPEND TO TOTAL UTILITY PROCUREMENT					
	%	%	%	%	\$	%	\$	%					
					0	0.00%		0.00%					

Public Service Commission of Maryland  
 Supplier Diversity Annual Report of  
 Long Term Goals  
 (MOU Sec. 7.1)

ATTACHMENT E-3									
UTILITY NAME:									
FOR THE REPORTING YEAR:									
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	
YEAR	MINORITY BUSINESS ENTERPRISE	WOMEN BUSINESS ENTERPRISE	SERVICE DISABLED VETERAN BUSINESS ENTERPRISE	NOT FOR PROFIT WORKSHOP	(\$) TOTAL	(%) TOTAL BY SPEND	TOTAL UTILITY PROCUREMENT (\$)	PERCENTAGE (% OF DIVERSE SUPPLIER SPEND TO TOTAL UTILITY PROCUREMENT)	
	%	%	%	%	\$	%	\$	%	
					0	0.00%		0.00%	

# EXHIBIT 2

## Senate Bill No. 1045

### CHAPTER 1165

An act to add Sections 11139.6, 11139.7, and 11139.8 to the Government Code, relating to public employment and contracting.

[Approved by Governor September 30, 2002. Filed with Secretary of State September 30, 2002.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1045, Polanco. Public employment and contracting. Existing provisions of the California Constitution prohibit discrimination or preferential treatment based on race, ethnicity, and gender in the operation of public employment, public education, and public contracting.

This bill would declare the intent of the Legislature to reaffirm diversity as a public policy goal in public employment and public contracting. The bill would authorize governmental agencies to engage in various general recruitment and outreach programs and focused outreach activities to increase diversity in public employment and public contracting. The bill would require each state department or agency awarding a contract or procuring goods or services, and would authorize each local agency receiving state funds, to collect information and report annually to the Governor and the Legislature on the participation level of minority, women, and disabled veteran-owned business enterprises in these contract and procurement activities.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature hereby finds and declares the following:

(a) Proposition 209, enacted by the voters on November 5, 1996, amended the California Constitution by adding Section 31 to Article I thereof to ban discrimination or preferential treatment based on race, ethnicity, and gender in the operation of public employment, public education, and public contracting.

(b) It is the intent of the Legislature to reaffirm diversity as a public policy goal in public contracting and public employment.

(c) California's ability to compete will suffer if talented, skilled business professionals and workers from any segment of the labor pool are excluded from employment or denied contracting opportunities because of discrimination or exclusion.

(d) In an August 1, 2000, report by the Governor's Task Force on Diversity and Outreach, the Task Force recommended the state's outreach efforts should ensure all sectors of California's workforce are informed of state employment openings.

(e) It is the intent of this act to emphasize and clarify that Section 31 of Article I does not prohibit governmental agencies from fashioning outreach programs in ways that will yield diverse results in public employment and public contracting.

(f) It is further the intent of the Legislature to clarify permissible outreach strategies to accomplish the diversity goal.

SEC. 2. Section 11139.6 is added to the Government Code, to read:

11139.6. (a) (1) The Legislature finds and declares that subdivision (a) of Section 31 of Article I of the California Constitution prohibits state and local government agencies from discriminating against or granting preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, and public contracting. The Legislature finds that this prohibition does not prevent governmental agencies from engaging in inclusive public sector outreach and recruitment programs that, as a component of general recruitment, may include, but not be limited to, focused outreach and recruitment of minority groups and women if any group is underrepresented in entry level positions of a public sector employer.

(2) The Legislature also finds and declares that increasing the number of businesses that participate in the bidding process in public contracting results in more vigorous competition, and thus assists state and local agencies in obtaining the desired quality of work at a lower cost.

(3) It is the intent of this section that all governmental agencies shall engage in general recruitment and outreach programs to all individuals, including persons who are economically disadvantaged.

(b) For purposes of this section, underrepresentation shall be determined by comparing the minority group or the number of women at the governmental agency with that group's representation in the current civilian labor force in the jurisdiction of the governmental agency.

(c) State government employment shall use current state civilian labor force data to implement this section.

(d) It is the intent of this section to allow public sector employers to conduct outreach efforts with a goal of supplementing word-of-mouth recruitment that should result in increasing diversity of the public sector workforce.

(e) The type of recruitment activities allowed would include, but not be limited to, placement of job announcements in the following media instruments:

(1) General circulation newspapers, general circulation publications, and general market radio and television stations, including electronic media.

(2) Local and regional community newspapers.

(3) Newspapers, publications, and radio and television stations that provide information in languages other than English and whose primary audience is residents of minority and low-income communities.

(4) Publications, including electronic media, that are distributed to the general market and to newspapers, publications, and radio and television stations whose primary audience is comprised of minority groups or women.

(5) Recruitment booths at job fairs or conferences oriented to both the general market and the economically disadvantaged as well as those events drawing a significant participation by minorities or women.

SEC. 3. Section 11139.7 is added to the Government Code, to read:

11139.7. (a) The Governor's Task Force on Diversity and Outreach, in its August 1, 2000, report, concluded that data on minority business participation is not currently available, and that lack of useful data on minority business participation in state contracting is an overarching issue to be addressed.

(b) In contracting for and procuring goods, services, information technology, construction, architecture, and engineering consulting, and other consulting services, state and local departments and agencies are authorized to engage in focused outreach activities in addition to general outreach, for purposes of increasing participation by California's small business sector and increasing diversity in the state's contracting and procurement activities.

(c) Outreach activities may include, but are not limited to, the following:

(1) Invitations to bid distributed by state and local departments and agencies to state and local small business and trade associations and chambers of commerce, including ethnic chambers of commerce, and other business and professional associations, including professional minority, women, and disabled veteran-owned business and professional groups and associations, as appropriate.

(2) Publication of advertising concerning state and local contracting and procurement opportunities in trade papers and other publications focusing on small business enterprises, including publications and newspapers in languages other than English and those whose primary readership is minority, women, or disabled veteran-owned businesses.

(3) Outreach by small business advocates in each state or local government department or agency to state and local small business and trade associations and chambers of commerce, including ethnic chambers of commerce, and other business and professional associations, including professional minority, women, and disabled veteran-owned business and professional groups and associations, as appropriate.

SEC. 4. Section 11139.8 is added to the Government Code, to read:

11139.8. Notwithstanding any other provision of law, commencing January 1, 2003, each state department or agency awarding a contract or procuring goods or services shall, and each local agency receiving state funds may, collect information and report to the Governor and the Legislature on the level of participation by minority, women, and disabled veteran-owned business enterprises in contract and procurement activities as identified in this section. The reports shall be submitted annually, on or before July 1 of each year, and shall include dollar values of contract awards for the following categories of contractors:

- (a) Construction.
- (b) Architecture and engineering and other professional services.
- (c) Procurement of materials, supplies, and equipment.
- (d) Information technology procurements.

# EXHIBIT 3

## Exhibit 3

### **6. UTILITY IMPLEMENTATION**

Each utility's WMDVBE program shall be designed to ensure that WMDVBEs are encouraged to become potential suppliers of products and services to the utilities subject to GO 156. Nothing in GO 156 authorizes or permits a utility to utilize set-asides, preferences, or quotas in administration of its WMDVBE program. The utility retains its authority to use its legitimate business judgment to select the supplier for a particular contract.

#### 6.1. Internal Utility Program Development

Each utility shall maintain an appropriately sized staff to provide overall WMDVBE program direction and guidance and to implement WMDVBE program requirements.

6.1.1. Each utility shall ensure that its employees with procurement responsibilities receive training in the implementation of its WMDVBE program.

#### 6.2. External Outreach

Each utility shall implement an outreach program to inform and recruit WMDVBEs to apply for procurement contracts.

6.2.1. Outreach activities may vary for each utility depending on its size, service territory, and specific lines of business. However, each utility shall at a minimum:

- (1) Actively seek out opportunities to identify WMDVBE contractors and to expand WMDVBE source pools;
- (2) Actively support the efforts of organizations experienced in the field who promote the interests of WMDVBE contractors;
- (3) Work with WMDVBE contractors to facilitate contracting relationships by explaining utility qualification requirements, bid and contracting procedures, materials requirements, invoicing and payment schedules, and other procurement practices and procedures;
- (4) At the request of any unsuccessful WMDVBE bidder, provide information concerning the relative range/ranking of the WMDVBE contractor's bid as contrasted with the successful bid. Information

on additional selection criteria, such as warranty periods, maintenance costs, and delivery capability, shall be provided when requested if disclosure would not violate the proprietary nature of the specific contract element;

(5) To the extent possible, make available to WMDVBE contractors lists of utility purchase/contract categories which offer them the best opportunity for success;

(6) Encourage employees involved in procurement activities to break apart purchases and contracts as appropriate to accommodate the capabilities of WMDVBES;

(7) Summarize this General Order in its outreach pro-gram handouts. Such summaries shall state that WMDVBES will be furnished a complete copy of this General Order upon request.

(8) Each utility is directed to offer the same assistance set forth in Section 6.2 to non-WMDVBES, upon request.

6.2.2. In addition to the outreach activities delineated in section 6.2.1., each utility, depending on its size, service territory, and specific lines of business shall, at a minimum, undertake the following focused outreach measures:

(1) Invitations to bid distributed to local small business and trade associations and chambers of commerce, including ethnic chambers of commerce, and other business and professional associations, including professional minority, women, and disabled veteran-owned business and professional groups and associations, as appropriate.

(2) Publication of advertising concerning contracting and procurement opportunities in trade papers and other publications focusing on small business enterprises, including publications and newspapers in languages other than English and those whose primary readership is minority, women, or disabled veteran-owned businesses.

(3) Publication of advertising concerning contracting and procurement opportunities in radio and television stations that provide information in languages other than English and whose primary audience is minority, women, or disabled veteran-owned businesses.

(4) Outreach to local small business and trade associations and chambers of commerce, including ethnic chambers of commerce, and other business and professional associations, including professional minority, women, and disabled veteran-owned business and professional groups and associations, as appropriate.

(5) Each utility shall encourage and assist its prime contractors to undertake the focused outreach measures delineated in (1) – (4).