



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Service-Disabled Veteran-Owned Business Program Implementation

Office of General Services



Report 2015-S-81

September 2016

Executive Summary

Purpose

To determine the extent of progress that the Office of General Services (OGS) has made in implementing the Service-Disabled Veteran-Owned Business (SDVOB) Program. The audit covers the period June 1, 2014 through December 31, 2015.

Background

The Service-Disabled Veteran-Owned Business Act (Act) was signed into law on May 12, 2014. The Act established a 6 percent goal for SDVOB participation in State contracts. The Act also created the Division of Service-Disabled Veterans' Business Development (Division) within OGS to oversee the State's SDVOB Program (Program) and to certify eligible businesses. As of December 28, 2015, there were 178 State-certified SDVOBs.

Key Findings

- From June 2014 through December 2015, the Division made substantial progress on its responsibilities as defined by the Act. For example, the Division issued regulations, established adequate policies and procedures for certifying SDVOBs and complied with them, and also conducted significant outreach to veterans groups, State agencies, and public authorities about the Program.
- The Division has not yet developed a written, comprehensive statewide plan for implementing the Program. The Program would benefit from such a plan that includes progressive milestones and participation goals to guide its future progress. The Program could also benefit from additional efforts to identify and address barriers to SDVOB development.

Key Recommendations

- Develop a formal strategic plan to guide the Program's future development.
- Expand efforts to gather and analyze information on agency contracting needs and potential service gaps, and work with strategic partners to increase the pool of certified SDVOBs to address any unmet needs.

Other Related Audits/Reports of Interest

[Metropolitan Transportation Authority: Minority and Women's Business Enterprise Reporting \(2010-S-9\)](#)

[Dormitory Authority of the State of New York: Contract Participation of Minority- and Women-Owned Business Enterprises \(2014-S-7\)](#)

State of New York
Office of the New York State Comptroller

Division of State Government Accountability

September 7, 2016

Ms. RoAnn M. Destito
Commissioner
Office of General Services
Corning Tower
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Dear Ms. Destito:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of the Office of General Services entitled *Service-Disabled Veteran-Owned Business Program Implementation*. The audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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This report is also available on our website at: www.osc.state.ny.us

Background

The Service-Disabled Veteran-Owned Business Act (Act) was signed into law on May 12, 2014 to encourage and support eligible veteran-owned businesses to play a greater role in the State's economy by increasing their participation in State government contracting opportunities. The Act establishes a 6 percent goal for Service-Disabled Veteran-Owned Businesses' (SDVOBs) participation in State contracts. To qualify as a SDVOB, business owners must have received a service-related disability rating of 10 percent or greater from the U.S. Department of Veterans Affairs.

The Act also created the Division of Service-Disabled Veterans' Business Development (Division) within the Office of General Services (OGS) to oversee the State's SDVOB Program (Program) and to certify eligible businesses. The Division also has the following responsibilities under the Act:

- Publishing a database of certified SDVOBs.
- Coordinating Program training for all State agency procurement personnel.
- Developing operational guidelines to promote SDVOBs and to assist them in pursuing opportunities to participate in agency and public authority contracting.
- Identifying barriers to SDVOB development and investigate and evaluate their impact on achieving the objectives of the Act.
- Assisting agencies and public authorities in the development of programs to foster and promote the use of SDVOBs on State contracts.
- Establishing regular performance reporting systems for the Program.
- Providing advice and technical assistance to promote SDVOBs' understanding of State procurement laws, practices, and procedures.

The Division established regulations (Title 9, Part 252 of the New York Codes, Rules and Regulations) that require State agencies and public authorities to establish annual SDVOB contract goals, make a good faith effort to achieve those goals, and report on SDVOB usage. Specifically, each State agency and public authority must submit a Master Goal Plan (Plan), or a Plan update, to the Division on or before January 15 of each year. In addition, Plans should contain agency-specific SDVOB contract goals expressed as a percentage of total contract spending.

In 2015, the Division launched the Program with a pilot group of ten agencies and authorities (Pilot Group) that management believed were best equipped to use SDVOBs in the Program's first year. During 2015, all ten Pilot Group entities were expected to submit Plans and quarterly reports to the Division. Starting in 2016, the Division will require all State agencies and public authorities to submit Plans and quarterly reports.

As of December 28, 2015, the Division had certified 178 SDVOBs. During the period April 1, 2015 through September 30, 2015, the Division reported that State agencies and public authorities initiated 1,179 purchases and/or contracts involving 45 certified SDVOBs for \$10.8 million, of which \$6.5 million had been disbursed through December 28, 2015. The Division has three full-time staff.

Audit Findings and Recommendations

We found the Division has made substantial progress carrying out its responsibilities to implement the Program during the 18 months since the Act was created. The Division has focused primarily on identifying, certifying, and serving SDVOBs. For example, the Division issued regulations, established adequate policies and procedures for certifying SDVOBs and complied with them, and also conducted significant outreach to veterans groups, State agencies, and public authorities about the Program. However, the Division has not yet developed a written, comprehensive statewide Plan for implementing the Program. As the Program continues its implementation, and efforts shift more toward Program maintenance, enhancement, and measurement, the Program would benefit from a written strategic plan that includes progressive milestones and participation goals. The Program could also benefit from additional efforts to identify and address barriers to SDVOB development, which, if not addressed, could present challenges to agencies' and authorities' efforts to meet the State's 6 percent participation goal.

Program Implementation

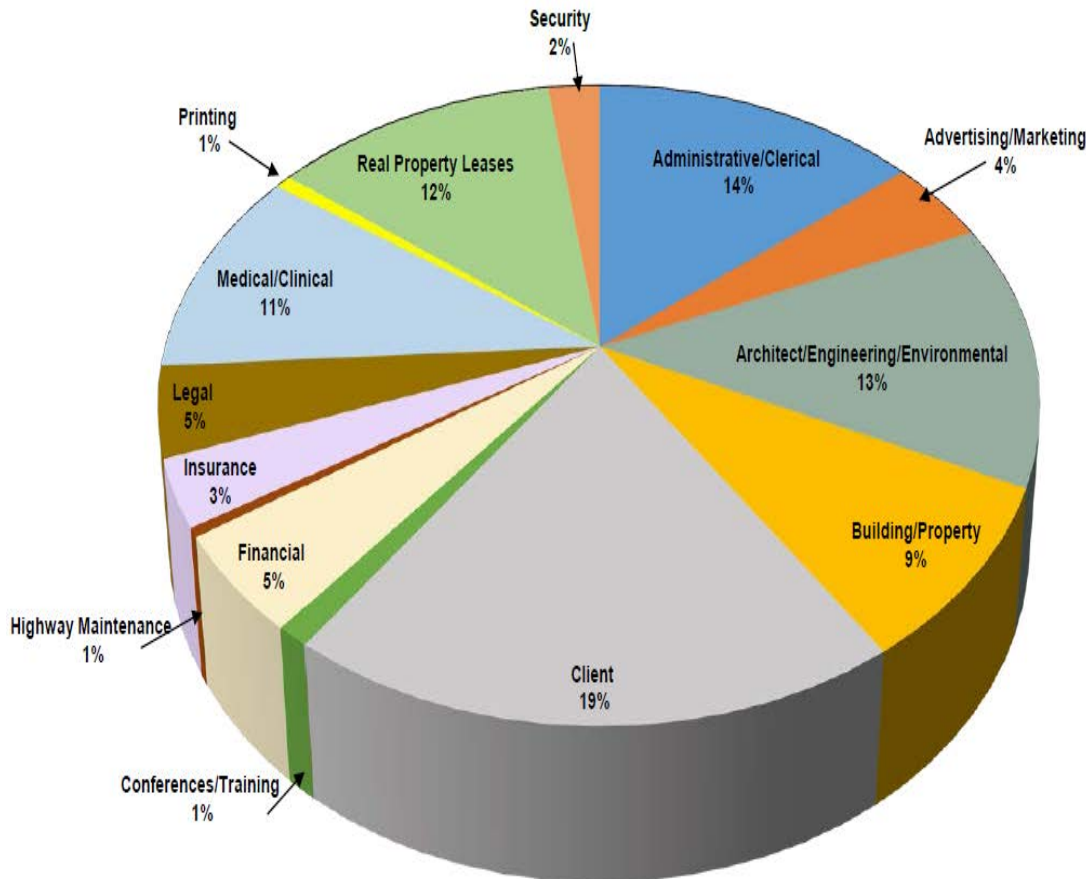
From June 2014 through December 2015, the Division made substantial progress on its responsibilities as defined by the Act. The Division focused much of its efforts on getting the Program up and running and began receiving applications for the certification of SDVOBs in early October 2014. It certified the first businesses during December 2014, and by December 2015 had certified 178 SDVOBs – an average of nearly 15 per month. Furthermore, the Division created and published rules and regulations; established an online database of certified SDVOBs; implemented systems from application through post-certification usage; and developed controls to respond to SDVOB certification requests. Also, the Division instituted a targeted marketing strategy to attract SDVOB applications, and coordinated with various State agencies and authorities to help them understand the Program and to encourage the use of certified SDVOBs.

However, as of March 2016, the Division had not yet developed a comprehensive statewide plan for implementing the Program. Therefore, the Division cannot assess its progress against its own plans and goals. Without a formal written plan with incremental goals, activities, and the resources needed to achieve them, the Division and agencies and authorities may have difficulty monitoring and managing the Program's progress toward the State's utilization goal. The need to do so is heightened due to New York's aggressive goal of 6 percent. Our analysis of six other states with SDVOB programs similar in scope and magnitude to New York's showed their goals ranged from 1 to 5 percent, with two states at 5 percent and three states at 3 percent. For example, California's program, which started in 1989 and has 1,935 certified SDVOBs, has a 3 percent participation goal.

Division officials indicated they have been implementing a general plan with informal milestones and timelines based on the directives of the Act, but that this plan is unwritten. Officials explained that it was initially more efficient to use Program resources to engage agencies, authorities, and SDVOBs rather than formalizing a written plan. Nonetheless, they agree that the Program has progressed to a stage where an additional documented strategy is necessary, and indicated the Division will formalize the strategic plan in writing.

Agency Service Needs

In fiscal year 2014-15, State agencies purchased more than \$3.4 billion in professional services,¹ as illustrated in the following chart and broken down by category.



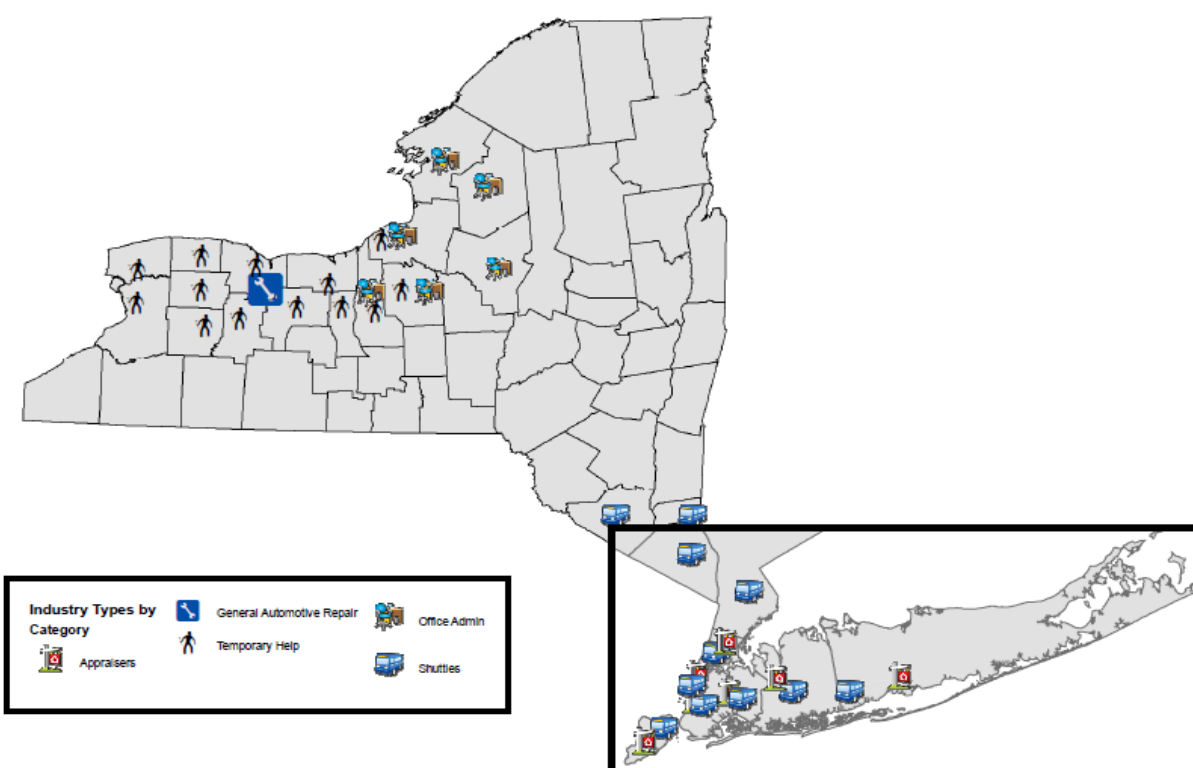
Administrative/Clerical	\$481,677,843	Advertising/Marketing	\$148,158,538
Architect/Engineering/Environmental	\$456,667,022	Building/Property	\$296,423,570
Client	\$649,595,421	Conferences/Training	\$34,821,755
Financial	\$165,554,841	Highway Maintenance	\$15,348,140
Insurance	\$113,928,588	Legal	\$155,173,246
Medical/Clinical	\$362,892,029	Printing	\$22,887,927
Real Property Leases	\$420,277,602	Security	\$76,809,359
		Total Spending:	\$3,400,215,881

¹From the fiscal 2014-15 *Directory of Frequently Purchased Commodities and Services by New York State Agencies* published by the Office of the State Comptroller.

As of December 2015, the Division reported that certified State SDVOBs were available to provide the following types of goods and services:

- Construction and construction professionals (42 percent),
- Specialized services (41 percent),
- Commodities (12 percent), and
- Financial services (5 percent).

We found that for certain professional services, such as custom computer programming and engineering, certified SDVOB vendors provide coverage statewide. However, for others, such as shuttle bus services, general automotive repair, real estate appraisals, temporary help, and administrative services, SDVOBs' geographic coverage is limited, as illustrated on the following map depicting specific counties served.



As of March 2016, there was insufficient data available to determine whether service gaps exist in certified SDVOB coverage in areas where agencies and authorities have a demand for the services. While the Act requires State agencies and authorities to submit Plans and quarterly reports on their utilization of SDVOBs, the Program is still in its infancy and has yet to yield much information from agencies and authorities. For example, as of December 2015, utilization data had only been gathered from a Pilot Group of ten agencies and authorities. Since the end of December 2015, the Division had received most agencies' Plans, and was analyzing their spending data. Division management indicated that this information will be useful in identifying needs and prioritizing the Division's future efforts.

Our review of the ten Plans from the Pilot Group reveals agencies had concerns about the limited availability of SDVOB services in certain geographic areas. For example, one agency's Plan indicated the pool of available certified SDVOBs was not sufficient to guarantee competition or was not geographically situated to provide certain services where needed. Because certified SDVOBs were not yet available, Pilot Group agencies either reduced participation goals or limited SDVOB participation to very specific expenditure categories. Services available in limited geographic areas could affect certain agencies with many locations throughout the State, such as the Department of Corrections and Community Supervision and the State University of New York.

Division officials indicated they have been, and will continue, gathering information about agency contracting needs and will continue to disseminate that information to interested parties, such as veterans groups and agencies. For example, when agencies identify needs that cannot be met by existing SDVOBs, the Division shares the information with strategic partners like the Veterans Administration and the Small Business Administration that specialize in veterans' business development as a potential springboard for start-up SDVOBs that can fulfill the need. The Division has also encouraged agencies to reach out to businesses to see if they would qualify as an SDVOB, which has led to additional Program applications. However, officials indicated that this approach requires a significant investment of time and resources, and expressed an expectation that there was only a limited likelihood that newly established SDVOBs will exactly meet agency and authority needs. While officials agree such activities are beneficial, they indicated the Division's primary goal is to identify, certify, and serve the current SDVOBs. Therefore, they have not made such activities a primary focus for their limited staff resources.

Officials indicated that once they can analyze SDVOB utilization for the first full year and perform year-to-year comparisons, they will have a better understanding of the baseline for spending on SDVOBs. With that information, they can evaluate whether SDVOB spending is meeting the State goal and determine if agencies could better meet the goals through improved use of firms. Moving forward, the Division should continue expanding its monitoring of agency contracting needs, identifying service gaps and potential barriers, and strategically targeting its SDVOB development efforts.

Recommendations

1. Develop a formal strategic plan to guide the Program's future development. The plan should address, but not necessarily be limited to:
 - Future implementation activities and milestones in areas such as certification, marketing, and training;
 - Division resource needs;
 - Agency and authority plans and reporting; and
 - Performance monitoring, both at the agency and authority level and on a statewide basis.
2. Expand efforts to gather and analyze information on agency contracting needs and potential service gaps, and work with strategic partners to increase the pool of certified SDVOBs to address any unmet needs.

Audit Scope and Methodology

The objective of our audit was to evaluate the extent of progress OGS has made in implementing the SDVOB Program. The audit covers the period June 1, 2014 through December 31, 2015.

To achieve our audit objective, and determine whether associated internal controls over the SDVOB Program are adequate, we reviewed relevant laws and regulations as well as the Division's policies and procedures, and interviewed Division officials. We randomly sampled 20 of the 166 vendors that had been certified at the start of our audit to determine if they met all the requirements, including appropriate supporting documentation, and were certified within the required time period. We also contacted half of these 20 vendors to assess their satisfaction with the Program. Eight of these vendors were geographically dispersed throughout the State, while two vendors were located out of state. We also randomly selected five of 25 vendors that had been denied certification to determine whether they were rejected for valid reasons. We reviewed the Division's contacts with veterans' organizations and State agencies and authorities. We also analyzed the ten goal plans submitted by the pilot agencies and authorities, and reviewed the first two quarterly submissions of agency quarterly reports. Finally, we performed research on six other states (California, Arkansas, Illinois, Indiana, Maryland, and Michigan) that operate similar programs.

We conducted our audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform our audits to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

Reporting Requirements

We provided a draft copy of this report to OGS officials for their review and comment. We considered their comments in preparing this final report and have included them in their entirety

at the end of it. Officials agreed with our recommendations and indicated they have taken steps to address them.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Office of General Services shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Contributors to This Report

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Agency Comments



Office of General Services

ANDREW M. CUOMO
Governor

ROANN M. DESTITO
Commissioner

May 19, 2016

Mr. John Buyce
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236-0001

Re: Response to Draft Report 2015-S-81

Dear Mr. Buyce:

In accordance with Section 170 of the Executive Law, the Office of General Services (“OGS”) is responding to your draft Report 2015-S-81 (the “Report”), which examined the implementation of the Service-Disabled Veteran-Owned Business Program (the “Program”). As you have recognized, OGS’s Division of Service-Disabled Veteran-Owned Business Development (the “Division”) has made significant and substantial progress in implementing and promoting economic development among service-disabled veterans throughout the State economy and in particular through New York State contracting.

Background

As referenced in the draft Report, the Division was organized in mid-2014 as a result of the Service-Disabled Veteran-Owned Business Act (the “Act”) that established a participation goal of 6% for Service-Disabled Veteran-Owned Businesses (“SDVOBs”) in State contracts. Under the Act, State agencies and authorities are tasked with establishing an annual plan to outline efforts that will be made to try to reach the 6% goal by creating contract and utilization goals and promoting the use of SDVOBs in all applicable aspects of spending. It is the responsibility of the Division to monitor the activities of the agencies and authorities, develop Statewide annual reporting and, most importantly, assist SDVOBs in becoming certified and positioned to do business through State contracts.

Program Development Accomplishments and Activities

As recognized in the preliminary Report your office shared with OGS in February 2016, in the initial 18 months of the Program, the Division has implemented the fastest-growing program of its kind in the nation. As evidenced throughout the draft Report and the discussion above, the implementation of the Program has produced several notable highlights, including:

- A total of 228 applications received and 178 SDVOBs certified with an average certification time of 39 business days through the end of the audit period (12/31/15)
- Statewide contract awards totaling approximately \$10,800,000 for fiscal year 2015/2016
- Statewide spending totaling approximately \$6,500,000 for fiscal year 2015/2016

Specific successes and undertakings associated with the Program implementation are set forth below:

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SDVOB Certification System

The Division has developed and implemented a certification system that meets the requirements of the Act and does so in a timely manner while ensuring a high level of customer service and high degree of due diligence including:

- the development of a detailed application form and process
- the design of all back-office functions, processes and procedures
- the institution of communication policies assuring the highest level of customer service
- the creation of all standard forms, letters, and scripts
- maintenance of workflow processes to ensure that statutory deadlines are met or exceeded
- the establishment of file review and visitation processes and procedures to ensure a high level of due diligence

Business and Organization Outreach

The Division has established a diverse and extensive outreach effort to SDVOB owners to increase awareness of and promote confidence in the Program by meeting with SDVOBs and by working with federal, State, regional, and local organizations and individuals to assist in the identification of and communication to qualified SDVOBs including:

- communicating by email, phone and mail to the list of individuals and businesses that completed the interest form that was created from the initial publicity and advertisements related to the passage of the Act
- communicating by email, phone and mail to the SDVOBs certified through the U.S. Department of Veterans Affairs Center for Veterans Enterprise and were doing business in New York State
- identifying and meeting with key centers of influence across the State and country to enlist their assistance in communicating with SDVOBs and referring them to the Program
- attending events for veterans, MWBEs, entrepreneurs, and industry and trade associations and attending other targeted events to communicate the advantages of the Program for service-disabled veterans
- communicating with and visiting veteran and entrepreneurial organizations to promote the Program

SDVOB Business Development

The Division has facilitated the development of new SDVOBs by engaging individuals, businesses, and organizations to identify veterans with service-connected disabilities and working with them in starting a business, including:

- identifying public and private organizations engaged in entrepreneurial business development
- identifying military bases and the most appropriate way to disseminate information to active duty personnel
- meeting with colleges, Entrepreneur Assistance Programs, Small Business Development Centers, Chambers of Commerce, and similar organizations to promote opportunities for SDVOBs

Agency and Authority Engagement

The Division has collaborated with agencies and authorities to address the goals of the Program in a manner that is realistic and recognizes the limited supply of SDVOBs given the newness of the Program. Such efforts include:

- the development of a pilot program for six agencies and four authorities
- the creation of all contract language and compliance documents
- meeting with all pilot entities to communicate the program requirements and to advance the utilization of SDVOBs

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- obtaining information from all pilot entities on experiences with SDVOB utilization to determine the need for Program adjustments
- the development of the processes and procedures for the Statewide rollout of the Program including best practice standards, plan development recommendations, and utilization reporting guides.

OGS Responses to OSC's Recommendations

Recommendation #1

Develop a formal strategic plan to guide the Program's future development. The plan should address, but not necessarily be limited to:

- *Future implementation activities and milestones in areas such as certification, marketing, and training;*
- *Division resource needs;*
- *Agency and authority plans and reporting; and*
- *Performance monitoring, both at the agency and authority level and on a statewide basis.*

As referenced above in the discussion on Program development accomplishments, the milestones and timelines related to critical functions have all been met or exceeded. With the initial efforts of the Division focused on engagement of the agencies and SDVOBs, it was decided that Program resources were more efficiently used for these core missions rather than formalizing a written plan. The strategy implemented, which is still a focus of the Program's operations, has exceeded the requirements set forth in the Act.

The Division is preparing a formal, written strategic plan to continue to build upon the directives of the Act. The formalization of this plan will include the OSC's recommendations set forth above and build upon the implementation achievements. Additionally, the plan will identify the primary data that is expected to be generated during fiscal year 2016/2017 that will put the Division in a position to create milestones and goals to help agencies and authorities meet their utilization goals.

The Division will continue to focus on activities to identify and certify new SDVOBs and work with agencies and authorities to better understand the services and products that are available through the Program as well as to understand how to increase the participation of SDVOBs in State contracts.

Once the Division analyzes SDVOB utilization for the first full year of the program, and then performs year-to-year comparisons, it will have a better understanding of the baseline for spending on SDVOBs. With that information, the Division will evaluate whether spending is meeting the goals and determine if agencies could meet the goals through improved use of firms or through other tools available for identifying available utilization or available spending.

Recommendation #2

Expand efforts to gather and analyze information on agency contracting needs and potential service gaps, and work with strategic partners to increase the pool of certified SDVOBs to address unmet needs.

As noted above, the Division has made considerable progress in gathering information on contracting needs across the State and increasing the pool of certified SDVOBs. Unfortunately, as confirmed in the draft Report, the geographic saturation of SDVOBs, especially in certain industries is largely unknown. The promotion of SDVOBs in State spending is a completely new concept for businesses Statewide, making identifying and locating eligible entities an inexact science.

In order to continue the progress already made with the implementation of the Program and to be responsive to this recommendation, the Division is taking the following steps to increase its efforts to properly meet the needs of both SDVOBs and the agencies and authorities:

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- continually communicating with agencies and authorities to determine if any gaps exist for SDVOB contract participation
- analyzing agency and authority annual plans to explore any new SDVOB opportunities
- continually participating in, as well as helping to plan, “matchmaking” events to connect not only potential contractors and subcontractors, but also to connect SDVOBs with agencies and authorities.

Conclusion

OGS appreciates the OSC’s recognition of the success of our efforts to launch the Program. Considerable efforts have gone into the development of the certification process and outreach to veterans groups and State agencies. We understand the importance of promoting economic development among those who bravely served our country.

If you have additional questions or comments, please contact Theresa Bonneau at (518) 402-5846 or theresa.bonneau@ogs.ny.gov

Sincerely,



RoAnn M. Destito

cc: K. Tyler
B. Matthews
B. Allen
K. Williams
T. Bonneau