

Recommendations & Policy Options: Operations and Performance of the Department of Small Business & Supplier Diversity

JLARC staff typically make recommendations to address findings during reviews. Staff also sometimes propose policy options rather than recommendations. The three most common reasons staff propose policy options rather than recommendations are: (1) the action proposed is a policy judgment best made by the General Assembly or other elected officials, (2) the evidence indicates that addressing a report finding is not necessarily required, but doing so could be beneficial, or (3) there are multiple ways in which a report finding could be addressed and there is insufficient evidence of a single best way to address the finding.

Recommendations

RECOMMENDATION 1

The Department of Small Business and Supplier Diversity (SBSD) should post pre-certification webinars or videos on its website that describe the application process, including the documents required, the purpose of each document, and the specific information SBSD requires in each document. (Chapter 2)

RECOMMENDATION 2

The Department of Small Business and Supplier Diversity (SBSD) should amend its regulations to provide a right of appeal to small, women-owned, and minority-owned businesses who have been denied a new certification if their basis for challenging the decision is that SBSD made a mistake in denying their application. (Chapter 2)

RECOMMENDATION 3

The Department of Small Business and Supplier Diversity should clarify its appeals process by revising denial letters and adding information to its website to more clearly describe the (i) circumstances and grounds to appeal a certification decision or seek a waiver, (ii) processes a business must follow, and (iii) documentation to provide when filing an appeal or seeking a waiver. (Chapter 2)

RECOMMENDATION 4

The Department of Small Business and Supplier Diversity should improve business awareness of and accessibility to its business assistance events and counseling sessions through (i) developing and implementing a coordinated written marketing plan and (ii) providing on-demand written materials and recorded webinars on its website. (Chapter 2)

RECOMMENDATION 5

The General Assembly may wish to consider including language in the Appropriation Act directing the Department of Small Business and Supplier Diversity (SBSD) to develop and submit a detailed improvement plan for the Business One Stop. The plan should include the following for each statutory requirement: (i) a description of the purpose and benefit to small businesses, (ii) the cost of fully implementing and maintaining the requirement, (iii) the resources needed beyond those currently available to implement and maintain the requirement, and (iv) SBSD's recommendation as to whether the requirement should be kept. The plan should be provided to the House Labor and Commerce, and Appropriations committees; and Senate Commerce and Labor, and Finance and Appropriation committees no later than November 1, 2021. (Chapter 2)

RECOMMENDATION 6

The Virginia Small Business Financing Authority Board should set annual utilization goals for loan programs that consider factors such as credit conditions and available loan funding. (Chapter 3)

RECOMMENDATION 7

The Virginia Small Business Financing Authority Board should direct staff to regularly track and annually report the percentage of loan and grant program funds that are utilized or awarded. (Chapter 3)

RECOMMENDATION 8

The Virginia Small Business Financing Authority should develop, submit to the Virginia Small Business Financing Authority Board for consideration and approval, and then implement internal policies that will govern loan application decisions and establish an appropriate risk standard that adequately reflects the public mission of the authority. (Chapter 3)

RECOMMENDATION 9

The Virginia Small Business Financing Authority should develop, submit to the Virginia Small Business Financing Authority Board for consideration and approval, and then implement a risk assessment tool to calculate the potential risk of loan applicants. (Chapter 3)

RECOMMENDATION 10

The Virginia Small Business Financing Authority should institute a process to conduct a risk-based review of outstanding loans at least annually and report the results to the Virginia Small Business Financing Authority Board. (Chapter 3)

RECOMMENDATION 11

The Virginia Small Business Financing Authority should add a requirement to formal loan participation agreements with banks that banks report support loans with a high risk of default as soon as they are identified. (Chapter 3)

RECOMMENDATION 12

The Virginia Small Business Financing Authority should set a goal that establishes an expected timeframe for processing loan applications and track and report how long it takes to process each loan application and the proportion of applications meeting the goal. (Chapter 3)

RECOMMENDATION 13

The General Assembly may wish to consider requiring the majority of citizen members of the Virginia Small Business Financing Authority Board to possess small business lending experience. (Chapter 3)

RECOMMENDATION 14

The Virginia Small Business Financing Authority (VSBFA) should develop a program improvement plan that addresses deficiencies, including low fund utilization; lack of loan approval policies; absence of a risk tool for loans; and lack of monitoring, tracking, and reporting on loans and fund utilization. The plan should be presented to the VSBFA board and transmitted to the House Appropriations and Senate Finance and Appropriations committees, and the secretary of commerce and trade no later than June 30, 2021. (Chapter 3)

RECOMMENDATION 15

The governor should revise Executive Order 35 to direct the Department of Small Business and Supplier Diversity (SBSD) to develop and implement a more meaningful SWaM plan development and review process focusing on strategies and substantive SBSBD feedback to agency staff. (Chapter 4)

RECOMMENDATION 16

The Department of Small Business and Supplier Diversity should develop and maintain information about effective strategies agencies can use to increase their SWaM expenditures and provide agencies with guidance on how to implement the strategies. (Chapter 4)

Policy Options to Consider

POLICY OPTION 1

The Department of Small Business and Supplier Diversity could refer businesses seeking general business assistance to larger federal programs and offer more events and counseling sessions on Virginia-specific certification and contracting topics. (Chapter 2)

POLICY OPTION 2

The Department of Small Business and Supplier Diversity could offer the Scaling4Growth program in each region of the state and to more businesses. (Chapter 2)

POLICY OPTION 3

The Virginia Small Business Financing Authority could expand microloan program eligibility to startup businesses through a pilot program for the purpose of assessing the demand for, and viability of, offering such loans. (Chapter 3)

POLICY OPTION 4

The governor could direct each state agency to set ambitious, but achievable, SWaM procurement spending goals that account for (i) the availability of certified SWaM businesses to provide the goods and services the agency procures and (ii) the agency's ongoing and upcoming new procurements. (Chapter 4)

POLICY OPTION 5

The General Assembly could amend §2.2-4310 and §2.2-1604 of the Code of Virginia to change the small business definition to businesses that have no more than 250 employees and gross receipts of no more than \$10 million. (Chapter 5)

POLICY OPTION 6

The General Assembly could amend §2.2-4310 and §2.2-1604 of the Code of Virginia to change the small business definition by reducing the number of employees and gross receipts that a business may have to qualify as a small business. (Chapter 5)

POLICY OPTION 7

The General Assembly could amend §2.2-4310 and §2.2-1604 of the Code of Virginia to direct that a small business definition be developed for each industry, with thresholds for number of employees or gross receipts, or both, that are based on the size characteristics of Virginia businesses in that industry. (Chapter 5)

POLICY OPTION 8

The General Assembly could amend §2.2-4310 and §2.2-1604 of the Code of Virginia to direct that a small business definition be developed that is set at 50 percent of the federal small business definition for each industry. (Chapter 5)

POLICY OPTION 9

The General Assembly could amend §2.2-4310 and §2.2-1604 of the Code of Virginia to direct that a small business definition be developed for groupings of industries based on size and types of goods and services state agencies purchase. (Chapter 5)

POLICY OPTION 10

The General Assembly could consider authorizing in the Appropriation Act an executive branch workgroup to consider whether and how to adjust the (i) state's procurement preferences for businesses (including women and minority ownership if the disparity study concludes doing so may be permissible), and (ii) state's definition of small business. The workgroup could be required to submit proposed legislative changes to the House General Laws Committee, Senate General Laws and Technology Committee, and Small Business Commission by November 1, 2021. (Chapter 5)
