

# OFFICE OF THE STATE INSPECTOR GENERAL

Department of Small Business and Supplier  
Diversity: Small, Women-owned, and Minority-  
owned Business Certification Program  
Performance Audit

December 14, 2017



Michael C. Westfall, CPA  
Acting State Inspector General  
Report No. 2017-PR-012



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*Office of the State Inspector General*

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December 14, 2017

Governor Terry McAuliffe  
PO Box 1475  
Richmond, VA 23219

Dear Governor McAuliffe,

The Office of the State Inspector General (OSIG) recently completed an audit of the Department of Small Business and Supplier Diversity (DSBSD). The report, which includes six findings and recommendations for improved efficiency and effectiveness within the Small, Women-owned, and Minority-owned (SWaM) Business Certification Program, is attached for your review and information.

OSIG would like to thank Director Tracey G. Wiley and her staff for their cooperation and assistance during this audit.

Respectfully,

A handwritten signature in black ink, appearing to read "Michael C. Westfall".

Michael C. Westfall, CPA  
Acting State Inspector General

CC: Paul J. Reagan, Chief of Staff to Governor McAuliffe  
Suzette P. Denslow, Deputy Chief of Staff to Governor McAuliffe  
Todd P. Haymore, Secretary of Commerce and Trade  
The Honorable Frank W. Wagner, Chairman of the Commerce and Labor Committee  
The Honorable Terry G. Kilgore, Chairman of the Commerce and Labor Committee  
Tracey G. Wiley, Director of the Department of Small Business and Supplier Diversity

## HIGHLIGHTS

# Small, Women-owned, and Minority-owned Business Certification Program

## ***What OSIG Found***

### **Enhance Reporting of SWaM Compliance**

DSBSD needs to improve documentation and reporting of state entities that fail to comply with expenditure goals set forth by *Executive Order 20*. Encouraging state entities to select SWaM vendors creates additional procurement opportunities for small businesses, advances procurement initiatives and could benefit the Commonwealth as a whole.

### **Perform a Certification Division Compensation Study**

DSBSD has conveyed difficulties in filling vacant positions within Certification due to disparities in pay, but it has not performed an evaluation of current salary levels for the division. In addition, DSBSD has not developed an exit survey process for employees separating from the agency.

### **Research the Feasibility of Implementing a Fee Structure into SWaM**

DSBSD does not charge an application fee for processing and certifying SWaM vendors. Funding to manage the Certification program is borne by the state's general fund, costing approximately \$626,000 for processing SWaM applications during FY2017.

Management concurred with six of six findings and plans to implement corrective actions from October 2017 to July 2019.

### **Why OSIG Did This Audit**

The Small, Women-owned and Minority-owned Business Certification Program (SWaM) within the Department of Small Business and Supplier Diversity (DSBSD) was selected for audit based on an annual work plan developed by the OSIG Performance Review Services Division to identify areas where potential improvements to effectiveness, efficiency and economy of operations may exist. The annual work plan included input from cabinet secretaries along with members of the General Assembly.

### **What OSIG Recommends**

- DSBSD should develop a process to track and report, to the Governor and General Assembly, state entities that are not complying with goals set forth by *Executive Order 20*.
- DSBSD should perform a compensation study for the Certification Division to determine if compensation is both internally equitable and externally competitive in the market. DSBSD should also include surveys in exit interviews to identify additional reasons why employees may be separating from the agency.
- DSBSD should work with the Office of the Attorney General and the Department of Planning and Budget to assess the feasibility of implementing a SWaM certification application processing fee. DSBSD should also determine the effect an application processing fee would have on legitimate SWaM application submissions and DSBSD's ability to increase SWaM participation in the Commonwealth.



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## BACKGROUND

### ***Agency Responsibilities:***

The Department of Small Business and Supplier Diversity (DSBSD) is the state agency dedicated to enhancing the participation of small, women-owned and minority-owned businesses in Virginia's procurement of goods and services. DSBSD also provides support to certified businesses through business development and procurement advocacy programs in cooperation with other agencies and departments. The goals of DSBSD include growing the number of certified businesses in the Commonwealth and increasing total dollars spent with Small, Women-owned and Minority-owned Business (SWaM) vendors as a percentage of all discretionary spend or contract dollars.

As the state agency responsible for administration of Virginia's business certification programs, DSBSD has made it its mission to ensure only bona fide SWaM, Disadvantaged Business Enterprises (DBE), Historically Black Colleges and Universities (HBCU), Employment Services Organizations (ESO) and Service Disabled Veteran-Owned Businesses (SDV) are certified to participate in Virginia's specialized procurement and contracting opportunities. The Certification Division (Certification) handles this task and is comprised of three units: SWaM Certification, DBE Certification and Transportation Business Development Assistance. In addition to providing certifications for SWaM, DBE, HBCU, ESO and SDV, Certification also provides specialized management and technical assistance to DBE firms participating in projects funded by the U.S. Department of Transportation and other federal government sectors.

### ***SWaM Initiative:***

The SWaM Procurement Initiative, which originally started with only women and minorities, was first implemented in 2002 by Governor Mark Warner via *Executive Order 29*. The goal of the program is to ensure small businesses and businesses owned by women and minorities receive every opportunity to compete for the Commonwealth's expenditures for goods and services. *Executive Order 103* signed in 2005 expanded the program to enhance participation of SWaM businesses in state contracting. In 2006, Governor Tim Kaine signed *Executive Order 10*, which administratively transferred the responsibility for the Department of Minority Business Enterprise (DMBE) from the Secretary of Commerce and Trade to the Secretary of Administration and consolidated the state's procurement efforts under one secretariat. In 2013, legislation under the McDonnell administration transferred responsibility for DMBE back to the Secretary of Commerce and Trade. Finally, in 2014, *Executive Order 20* signed by Governor Terry McAuliffe furthered the SWaM program efforts by creating additional designations, increasing set-aside thresholds and setting new requirements to ensure state agencies purchased from SWaM businesses where feasible. Today, the program is administered by DSBSD, which was created on January 1, 2014, through the consolidation of the Department of Minority Business Enterprise and Department of Business Assistance.

While there is no national SWaM certification process, the [U.S. Small Business Administration \(SBA\)](#) has issued guidance utilized by DSBSD. Nationally, SBA provides assistance to small businesses by providing access to capital, entrepreneurial development, government contracting and advocacy. In relation to federal government contracting, SBA provides the following programs:

- Women-Owned, Small Businesses – authorizes contracting officers to set aside federal contracts for eligible women-owned businesses;
- 8(a) Business Development Program – helps small, disadvantaged businesses compete in the marketplace;
- HUBZone Program – assists small businesses in urban and rural communities gain preferential access to federal procurement opportunities;
- Service Disabled, Veteran-Owned Businesses – provides procuring agencies with authority to set aside for exclusive competition among service-disabled, veteran-owned, small businesses;
- Small, Disadvantaged Businesses – allows firms considered to be small, disadvantaged businesses to compete for certain federal contracting opportunities; and
- All Small Mentor-Protégé Program – helps protégé firms successfully compete for government contracts.

Unlike other certification programs administered by DSBSD that mirror federal regulations verbatim, SWaM regulations outlined in the [Administrative Code](#) differ from SBA. These differences benefit SWaM vendors as follows:

- SBA programs have more stringent requirements for scope of work in addition to penalties for noncompliance; and
- Virginia has created the “Micro” business designation for smaller SWaM vendors that have no more than 25 employees and earn no more than \$3 million in average revenue over a three-year period.

Additionally, SBA programs only apply for federal contract work, while the SWaM program applies only at a state level. A vendor is able to have both certifications; however, the SWaM program provides more opportunities for entities looking to do business with the Commonwealth.

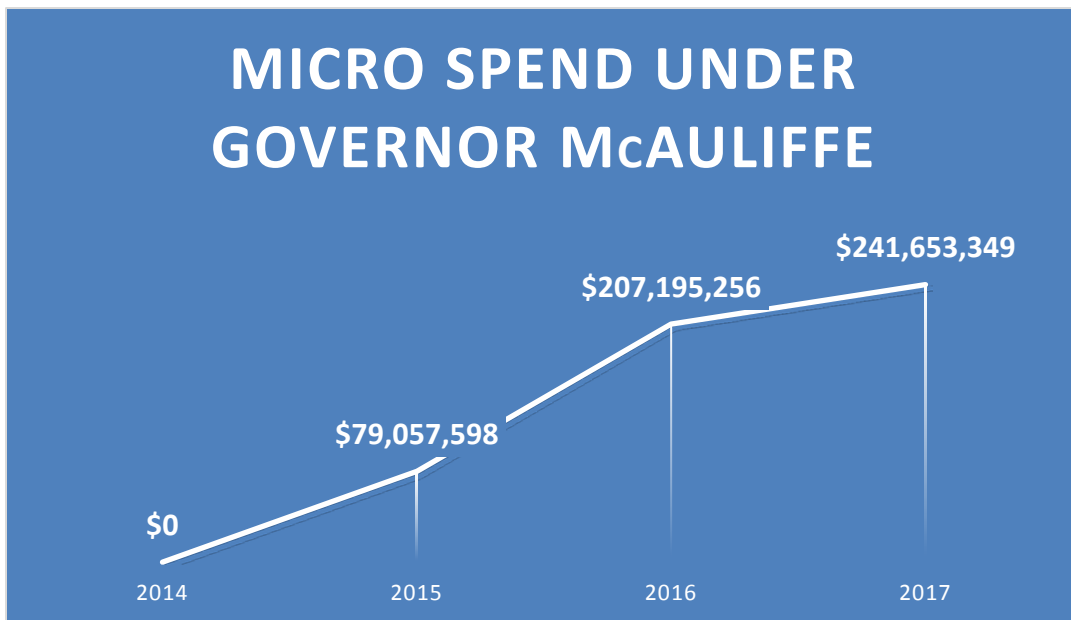
While the SWaM program is Virginia based, participation is not limited to just the Commonwealth; §7VAC13-20-80 of the *Administrative Code* allows DSBSD to certify a non-Virginia based business if:

- It meets the applicable eligibility standards for certification as a small, women-owned or minority-owned business; and
- The state in which the business has its principle place of business does not deny a like certification to a Virginia-based small, women-owned or minority-owned business or provide a preference to small, women-owned or minority-owned firms that is not available to Virginia-based businesses.

Because of *Administrative Code*, Virginia-based businesses are able to participate in other state SWaM programs.

**Micro businesses:**

*Executive Order 20*, signed by Governor McAuliffe in 2014, created the “Micro” Business designation. The Micro business designation furnishes eligible businesses with an additional venue to receive preferential selection in state procurement. Since its inception in 2014, more than 7,000 Micro businesses have been certified, receiving nearly \$528 million in purchase orders with 94 percent of those going to Virginia-based Micro businesses.



Source: eVA Warehouse

**SWaM Application Backlog:**

In order for a business to receive a SWaM certification designation, it must complete an application and submit it to DSBSD. DSBSD allows 60 days to process SWaM applications, from receipt of all documentation to SWaM certification or denial. Due to a combination of both administrative issues and turnover, DSBSD accumulated an application backlog that fluctuated between 0-900 applications pending approval monthly during fiscal year 2017 (FY2017). In order to meet the 60-day requirement and reduce the backlog, DSBSD used a temporary employment agency and instituted compulsory overtime for the majority of FY2017. Utilizing both the temporary employment agency and overtime, DSBSD has been able to reduce the outstanding application backlog and keep pace with current workloads.

In order to identify additional ways of combating the backlog, DSBSD hired a certification consultant to analyze the SWaM certification process as a whole and identify areas for improvement. Work performed by the consultant involved interviews, analytics and review of

documentation that led to drafting a SWaM assessment. Actions identified to improve SWaM certification processing include:

- Hiring additional staff;
- Reducing the number of incomplete applications;
- Discontinuing unscheduled walk-ins;
- Designating dedicated phone support;
- Creating a new application processing system;
- Combining SWaM requirements into the new application processing system;
- Marketing and rebranding the agency as a whole; and
- Reducing the work of the intake specialist position.

Since the assessment was issued on June 15, 2016, DSBSD has worked to implement actions recommended by the certification consultant to diminish the amount of outstanding SWaM certifications. OSIG reviewed work performed by the certification consultant, but offers no opinion on any recommendations provided to DSBSD. All information provided by the certification consultant was reviewed and included in this report for informational purposes only.

Several recommendations issued by OSIG in the “Findings” section below will also assist with addressing DSBSD concerns.



## SCOPE

The scope of this audit is specific to administration of SWaM Certification program operations from July 1, 2015 through June 30, 2017.

## OBJECTIVES

Objectives of this audit were:

- Determine whether SWaM certified vendors actually meet the program criteria for participation. If not, what is the impact on the program? If the impact is significant, what are the causes?
- Determine whether the SWaM certification process produces accurate results without unnecessary steps. If not, what is the impact on the program? If the impact is significant, what are the causes?
- Determine how DSBSD ensures the SWaM program is achieving performance goals. If the program is not achieving performance goals, what is the impact? If the impact is significant, what are the causes?

## METHODOLOGY

OSIG conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that OSIG plans and performs the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. OSIG believes the evidence obtained provides reasonable basis for the findings and conclusion based on the audit objectives.

OSIG applied various methodologies during the audit process to gather and analyze information pertinent to the audit scope and to assist with developing and testing the audit objectives. The methodologies include the following:

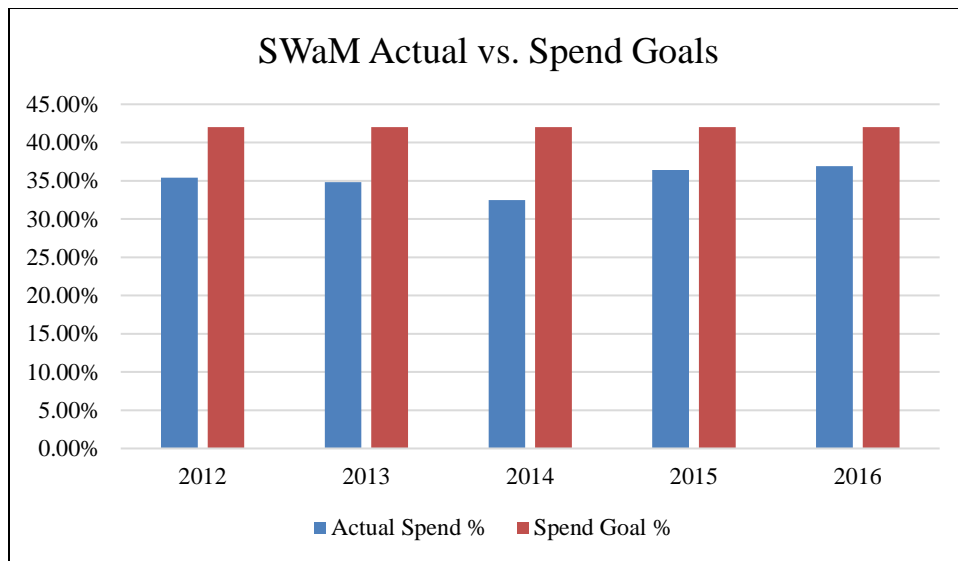
- Conducting interviews and observations/walk-throughs with Certification staff;
- Examining policies and procedures to gain an understanding of the SWaM program;
- Assessing the certification processes for efficiency and effectiveness;
- Sampling certified vendors to ensure program eligibility criteria was met;
- Collecting and analyzing relevant SWaM vendor and expenditure data;
- Reviewing general and application controls surrounding the SWaM database;
- Scanning the SWaM database to verify total records or identify incomplete or missing information; and
- Benchmarking business processes and performance metrics against similar activities in other states.

## FINDINGS

### *Enhance Reporting of SWaM Compliance*

DSBSD is not reporting state entities that fail to comply with expenditure goals set forth by *Executive Order 20*. Encouraging state entities to select SWaM vendors creates additional procurement opportunities for small businesses, advances procurement initiatives and could benefit the Commonwealth as a whole.

*Executive Order 20* initiated a target goal for all executive branch agencies with small businesses certified by DSBSD to allocate at least 42 percent of all expenditures toward SWaM businesses. This percentage applies to discretionary spending in categories from which the Commonwealth derives procurement orders, prime contracts and subcontracts. Since FY2012, 32 to 37 percent of Commonwealth expenditures have been with SWaM businesses.



DSBSD communicates and monitors how agencies target SWaM vendors through a combination of the following:

- SWaM procurement plans;
- Regional connect workshops;
- Outreach events; and
- The SWaM dashboard.

While promoting the SWaM initiative is always a priority of the agency, no formal tracking and reporting of noncompliant agencies has been done. According to DSBSD, it is up to each individual entity to prioritize SWaM vendors in procurement. In addition, DSBSD doesn't have the authority to force agencies to select SWaM vendors, so it has simply focused on communicating the benefits of SWaM vendors in procurement across the Commonwealth.

Because of this, the agency has not tracked and reported agencies that continue to fall short of the minimum SWaM procurement required by *Executive Order 20*.

Small businesses are essential to the U.S. economy, accounting for more than 50 percent of all U.S. sales annually. Furthermore, they provide unique benefits, such as catering to limited or niche markets. By not prioritizing SWaM vendors in state procurement, these businesses are negatively impacted and the Commonwealth has not met the spend goals set forth by *Executive Order 20*.

**Recommendation(s):**

1. DSBSD should develop a process to track and report — to the Governor and General Assembly — state entities that are not complying with goals set forth by *Executive Order 20*.

**Management Response:**

DSBSD **agrees** with the conditions observed and recommendations as presented, with the following statement:

1. The agency as directed by Virginia Code currently tracks and reports to the Governor, General Assembly and the Secretary of Commerce and Trade an annual compliance report of agencies submitting SWaM Plans reporting and forecasting procurement strategies and goals. In 2017, agencies not in compliance with the guidance of Executive Order 20 met with the agency director to discuss submission plans and corrective action. However, the agency does not have the authority or staffing resources to enforce compliance beyond reporting.

**Corrective Action(s):**

Responsible Position: Agency Director

Estimated Completion Date: January 30, 2018

1. Discussion with the Secretary of Commerce and Trade and Governor's Office to gain additional authority in collaboration with procurement on incentives and penalties for noncompliant agencies.

## ***Establish the Population of Agencies Required to Submit SWaM Plans***

DSBSD has not established the population of state agencies required to report their SWaM procurement plan annually.

*Code of Virginia* §2.2-4310 requires state agencies to provide DSBSD with an annual progress report on SWaM procurement (SWaM Plans). These SWaM Plans include information about each entity's:

- SWaM spend goals;
- Designation of SWaM equity champions;
- Policies and procedures for complying with SWaM;
- Diversity training events; and
- Overall assessment of the small business initiative.

The SWaM Plan must be submitted in the format established by DSBSD, and no exceptions are identified in *Code of Virginia* §2.2-4310 that would exempt any state agency from this requirement.

Data from these reports are compiled and included in the Annual Report on Commonwealth Agency and Department Reporting of Small, Women-owned, and Minority-owned Procurement. This report is provided to the Governor and General Assembly each year.

Over the last four fiscal years, DSBSD has requested submissions from state agencies and institutions across the Commonwealth as identified in the table below:

<b>Fiscal Year</b>	<b># SWaM Plans Requested</b>	<b># SWaM Plans Received</b>	<b>% SWaM Plans Not Received</b>
2013	124	119	4%
2014	109	107	2%
2015	108	105	3%
2016	119	111	7%

When questioned as to why there is inconsistency in collecting the SWaM Plans, DSBSD stated there is a lack of clarity within the *Code of Virginia* as to which entities are required to submit a SWaM Plan. When requesting SWaM Plans, multiple entities have claimed exemption from the legislation, and DSBSD has been unable to identify a true listing of entities which must submit a plan.

Additionally, for entities that agreed to submit a SWaM plan, two to seven percent did not comply within the timeframe. While DSBSD has communicated the importance of submitting these plans in a timely manner, the agency has stated it has no authority or leverage to enforce any penalties on noncompliant entities.

SWaM Plans play a key role in measuring the progress of the program statewide. By not submitting SWaM Plans on time, there's a risk that agencies not adhering to SWaM reporting requirements are also avoiding use of SWaM vendors. Without SWaM Plans, DSBSD will be unable to truly measure the participation of SWaM businesses in state procurement. Furthermore,

DSBSD will be unable to track the Commonwealth's overall progress toward the 42 percent spend goal set forth by *Executive Order 20*.

**Recommendation(s):**

2. DSBSD should develop a complete list of all state agencies and require them to submit a SWaM Plan annually. For agencies that claim exemption to *Code of Virginia* §2.2-4310, DSBSD should request evidence of their exemption and verify it supersedes wording in the *Code*. Additionally, DSBSD should work with the secretariats to request timely SWaM Plan submission from any state agency that remains noncompliant after implementing the above recommendation.

**Management Response:**

DSBSD agrees with the conditions observed and recommendations as presented, with the following statement:

2. The agency agrees with this recommendation and will work with the Secretary of the Commonwealth to determine the full list of state agencies that should be included within the SWaM report. It will also be determined which agencies are exempt and by what criteria for future reference.

It is furthermore agreed that the agency will document exemptions and include them as a reference in the final report to the General Assembly, the Governor and legislators for reporting.

The agency will also continue to remind agencies of their annual submission and consider quarterly reporting to ensure agencies are on track to stated goals in their proposed SWaM Plans. Quarterly numbers will also be posted to each Secretary and the Governor's Office in a quarterly memo closing the previous period.

**Corrective Action(s):**

Responsible Position: Agency Director, Administration, Executive Assistant

Estimated Completion Date: January 1, 2018

1. Complete list of eligible state agencies participating in the Governor's SWaM initiative.
2. Create a listing of agencies exempt from this process and rationale for nonparticipation.
3. A memo from the DSBSD director will explain the new reporting requirements and outline exemptions for state agency compliance.

## ***Maintain Historical SWaM Vendor Data***

DSBSD is unable to continually track and review all historical SWaM vendor data due to constraints in its current SWaM system. Maintaining and reviewing this data would allow the agency to better survey the performance of the program over time.

SWaM data (applications, vendor information, etc.) is maintained in a database administered by the Virginia Information Technologies Agency (VITA). DSBSD updates this database as necessary in order to keep SWaM vendor information current and accurate for the Commonwealth. Limitations identified within the database include the inability to maintain historical vendor data and generate reports.

Whenever a vendor's status is updated (e.g., certification lapsed and was re-certified), original certification date information is overwritten with current data. This data is used by specialized reporting software DSBSD licenses in order to generate reports required for strategic planning purposes and to the Secretary as needed. Certain reports run by this tool are based on the date the vendor was first certified. Because the database only provides the most recent certification information, the agency has been unable to accurately report on SWaM vendor information from previous fiscal years.

DSBSD staff has communicated that while the overwritten data may be embedded somewhere in the database, current reporting tools are unable to pull the data. Going forward, DSBSD hopes its new SWaM database, currently under development, will have this functionality. This system is anticipated to go live later this year and aims to replace both the database and reporting tool.

This constraint has prevented the agency from incorporating this data as a component of tracking the program's true performance over time. Without proper monitoring of this data, the agency will be unable to assess the program's progress toward the established performance goal of measuring the SWaM and DBE impact on the community.

### **Recommendation(s):**

3. DSBSD should ensure the new SWaM database has functionality that allows the agency to adequately track and perform analysis over accurate historical vendor data. Once established, DSBSD should continually perform analytics on the data to measure the impact of the program on the Commonwealth.
4. When performing the analysis, DSBSD should consider incorporating information from the SWaM Dashboard to assist in surveying spend amounts per vendor. By reviewing data at a vendor level, DSBSD will be able to benchmark expenditures of SWaM certified vendors against small business at a statewide level.

***Management Response:***

DSBSD **agrees** with the conditions observed and recommendations as presented, with the following statement:

3. The agency currently can record spend data through its expenditure dashboard and provide reporting monthly, quarterly and annually. Enhancements to the dashboard in a new technology platform are in progress.
4. The agency launched a new Certification Portal in July 2017. One of the enhancements to the new system was to capture historical data for reporting purposes. The agency also created shared file location where monthly reports can be cataloged.

***Corrective Action(s):***

Responsible Position: Operations and Technology Teams

Estimated Completion Date: December 2018

1. A statement of work is being developed for procurement; estimations for development are late 2018.

***Perform a Certification Division Compensation Study***

DSBSD has not performed an evaluation of current salary levels for the Certification Division. In addition, DSBSD has not developed an exit survey process for employees separating from the agency.

Department of Human Resource Management Policy 3.05 – Compensation states that agencies are to “implement an Agency Salary Administration plan that addresses the agency’s internal compensation philosophy and policies; responsibilities and approval processes; recruitment and selection process; performance management; administration of pay practices; program evaluation; appeal process; EEO considerations and the employee communication plan.”

A compensation or classification study has not been conducted since the Department of Business Assistance and Department of Minority Business Enterprise (DMBE) merged to create DSBSD in 2014. Staff are also not aware of any studies of this type having been performed prior to the merger.

DSBSD has communicated difficulties in filling vacant positions within Certification due to disparities in pay. Specifically, DSBSD interview panel members who have followed up with potential applicants documented multiple cases of qualified individuals rejecting positions within Certification due to insufficient pay. OSIG also verified with recently separated staff that insufficient pay was a factor in deciding to leave the agency.

When comparing state salary data for the Program Administration Specialist I (Certification Officer) position, average salaries were four percent higher than DSBSD. OSIG also benchmarked salary information with similar state entities and determined averages for similar positions (Certification Officer, Certification Analyst, Certification Coordinator, etc.) were four to 10 percent higher than DSBSD.

DSBSD has communicated adequate employee compensation is a priority; however, budget constraints have limited any funding increases for Certification.

When employees feel underpaid, an environment of frustration may affect overall productivity and ultimately lead to turnover. The Certification division has four positions. Since July 1, 2015, Certification has lost six employees from a combination of separations, resignations and retirements. High turnover within Certification has forced DSBSD to use a temporary employment agency to fill vacant positions. Additionally, turnover has required the agency to spend more than \$28,000 in compulsory overtime in order to process applications in a timely manner.

Continuous turnover results in increased human resource costs, including time to post and interview replacements for positions. Furthermore, the loss of experience impacts current staff, causing them to juggle their current workloads in addition to training new staff. By not addressing these issues, DSBSD will be unable to keep up with current and outstanding workloads without continued reliance on a temporary employment agency and overtime.

**Recommendation(s):**

5. DSBSD should perform a compensation study for Certification in order to determine if compensation is both internally equitable and externally competitive in the market. In performing this evaluation, DSBSD should utilize results from the Joint Legislative Audit and Review Commission's State Employee Compensation Study completed in November 2017. This study aims to find ways to attract and retain talent within the Commonwealth and would be useful to the agency. Furthermore, DSBSD should incorporate exit surveys into employee exit interviews to identify additional reasons employees may be separating from the agency.

**Management Response:**

DSBSD agrees with the conditions observed and recommendations as presented, with the following comment:

5. The agency agrees with this recommendation and will work with Shared Services and agency DHRM representatives to initiate the compensation study specifically for Certification, making the state program a priority. The agency will review the JLARC State Employee Compensation Study released in November. The Operations team is



currently reviewing ‘in-band’ adjustments and alignments for divisions where disparity exists.

The agency has already started to initiate exit surveys for all DSBSD staff leaving the agency and will focus on the Certification division and report back. The agency is also utilizing new strategies to attract and retain employees within the Certification division by engaging the colleges and universities, internships and temp to permanent solutions in staffing. This allows the agency and the potential applicant to determine cultural and professional fit to the organization prior to making the final commitment. It also allows the agency to reduce costs in recruitment and benefit loss that is incurred in quick turnover scenarios.

***Corrective Action(s):***

Responsible Positions: Agency Director, Chief of Staff, Administration, Operations Staff

Estimated Completion Date: December 31, 2017

1. Perform compensation study and review JLARC’s State Employee Compensation Study.
2. Initiate agency exit surveys.
3. Deploy external recruitment strategies to attract eligible potential candidates for the agency’s open positions and specifically for Certification.

## ***Research the Feasibility of Implementing a Fee Structure into SWaM***

DSBSD does not charge an application fee for processing and certifying SWaM vendors. Funding for managing the Certification program is borne by the state’s general fund. The cost to the state’s general fund to process SWaM applications in FY2017 was approximately \$626,000. A survey of similar entities within the industry did not identify SWaM application fees charged by state government. Entities surveyed that operate in the Washington D.C. area and private companies have an application fee structure for their SWaM programs.

*Code of Virginia* §2.2-1605 allows DSBSD to implement any remediation or enhancement measure for small, women-owned or minority-owned businesses as may be authorized by the Governor pursuant to subsection C of §2.2-4310, and develop regulations, consistent with prevailing law, for program implementation. Such regulations shall be developed in consultation with state agencies with procurement responsibility and promulgated by those agencies in accordance with applicable law.

Incomplete applications account for 40-50 percent of applications processed by the agency on a monthly basis. Due to the free nature of the program, DSBSD has communicated that vendors have

no incentive to adequately complete an application when applying for SWaM status. Historically when a vendor submits an incomplete application:

- Certification notifies the vendor of the missing documentation via email and gives 15 calendar days to respond.
- If the vendor does not respond in 15 calendar days, it is notified a second time and given an additional 15 calendar days to respond.
- If no response is received, the file remains in pending status until documents are received. Applications are not removed from the pending file.

Preliminary research performed by the agency has shown there may be some benefit to incorporating an application processing fee into the program. By instituting a small application processing fee, DSBSD believes it could not only reduce incomplete applications, but also create an additional revenue stream to fund the program. A fee structure has been considered for the program, but a formal study has yet to be performed.

Currently, DSBSD SWaM Certification receives more than 85 percent of its revenue from the state's general fund. During fiscal years 2016 and 2017, the SWaM Certification division spent about \$873,534 and \$626,562 in general funds to process SWaM applications. This accounts for 16 and 14 percent of the agency's appropriation, respectively. Even with *Executive Order 20* creating the new Micro designation, no additional funding streams have been identified to cover any additional administrative costs incurred.

Incomplete applications have played a large role in both increased application processing times and the application backlog. By not taking steps to reduce incomplete applications, DSBSD will be unable to reduce unnecessary workloads and runs the risk of denying procurement opportunities to qualified vendors. Furthermore, an application fee could potentially assist the program with becoming self-sustaining as opposed to relying on general fund dollars.

While practical cost recovery is a potential benefit of the fee structure, there are risks involved. Specifically, DSBSD will need to ensure it does not deter current and new applicants from legitimately engaging in the SWaM program. An unreasonable fee structure could not only decrease participation in the program, but could counteract the objective of maximizing participation of small businesses in state contractual work, set forth by *Executive Order 20*.

**Recommendation(s):**

6. DSBSD should work with the Office of the Attorney General (OAG) and the Department of Planning and Budget (DPB) to assess the feasibility of implementing a SWaM certification application processing fee. DSBSD will need to obtain an opinion by the OAG to determine if the agency needs additional authority to charge a fee.

7. DSBSD will need to submit a request to the Governor's office, through either a decision package or legislative proposal, that would allow for review and evaluation of any proposed fees.
8. DSBSD should also determine the effect an application processing fee would have on legitimate SWaM application submissions and DSBSD's ability to increase SWaM participation in the Commonwealth.

***Management Response:***

DSBSD **agrees** with the conditions observed and recommendations as presented, with the following comment:

6. The agency is in agreement with this recommendation and will use any and all research gathered by the Office of the Inspector General to initiate the conversation regarding the feasibility study of instituting a "fee-based" SWaM application fee. Additionally, there should be a feasibility study of the costs of processing an application in the various designations. Further, the agency will confer with the Office of the Attorney General to determine DSBSD's authority to charge fees for administering this service to the business community.
7. The agency agrees with this recommendation and will submit the proposed legislative and budgetary plan by the stated deadlines.
8. The agency agrees with this recommendation and will include in the agency's Phase II of the Economic Impact Study or initiate an expanded survey. Currently, the agency is partnered with Virginia Commonwealth University to provide a report in December 2017 on the impact of the SWaM Program on Virginia's economy, its value to the small business community based on its certification designation, and how that value translates to contracting, development and growth of these businesses.

Based on the recommendations, the agency could survey the active files of the certified population to determine if including fees for the designations beyond "Small" might increase the pool, change the demographic applicant pool or bring more value to the agencies that work with these vendors/suppliers. Other services, such as expedited certification, have surfaced for discussion. The agency does not currently offer this service for a fee, although it is an option.

***Corrective Action(s):***

Responsible Positions: Agency Director, Chief of Staff, Certification Manager, Administration

Estimated Completion Date: July 1, 2019

1. Review data gathered by OSIG.

2. Review the recommendation with the OAG and DPB.
3. Determine sources for the feasibility study of processing applications in various designations.
4. Propose appropriate fees for consideration that align with the application process and submit a legislative and budgetary decision package to the Governor's office.
5. Include application processing fees in Part II of an Economic Impact Research study being performed in spring 2018, and expand survey-active businesses within the DSBSD database.

## ***Update the Certification Officer Training Manual***

DSBSD does not have written policies and procedures for managing the certification of SWaM vendors that reflect current processes. Updated policies and procedures would provide Certification with a documented process to ensure certification of SWaM vendors in accordance with §7VAC13-20 of the *Administrative Code*.

DSBSD has developed the Certification Officer Training Manual (Manual) which serves as a framework for certification policies and procedures and provides instructions designed to improve quality and consistency of SWaM and DBE vendor certifications. In addition to serving as a tool for new employees, it provides a framework for ongoing training and performance management for current workers. The Manual provides guidance on the following topics:

- Certification Officer Role, Responsibilities and Authority;
- Types of Certifications and Definitions;
- Processing SWaM and DBE Applications; and
- Customer Service and Technology.

The Manual has not been updated since 2015. The following discrepancies were noted:

- References to DMBE;
- Broken hyperlinks referencing important documents; and
- Outdated documented processes that do not reference upcoming changes in Certification (such as online-only application processing and new legislation).

DSBSD staff identified other obligations (turnover, backlogs, etc.) as the reason for not making manual updates a priority. Without formalized policies and procedures or an updated Manual, employees run the risk of taking inconsistent approaches to certifications, which can lead to organizational inconsistency, inefficiency and inequity.

DSBSD has had application backlog problems, and conflicting approaches to SWaM vendor approval status have been a major factor contributing to the issue. The combination of these factors

could alter the way certifications will be performed in the future and warrant an update to the Manual.

**Recommendation(s):**

9. DSBSD should update its Manual and draft formalized policies and procedures to reflect current processes and upcoming changes to Certification. Due to resource constraints, DSBSD should consider outsourcing writing or assigning a temporary employment agency or intern to update the Manual in order to accomplish this task without impacting current productivity.

***Management Response:***

DSBSD agrees with the conditions observed and recommendations as presented, with the following statement:

9. The agency agrees with this recommendation and will work to update the certification manual. The certification manual was developed after the merger of the two agencies (2015) prior to the regulation changes in 2016 and 2017. New legislation, technology advances and implementation has been ongoing since 2014. Due to staffing resources the manual has not been updated. It will be a priority to update the Manual and align with staff training.

***Corrective Action(s):***

Responsible Positions: Chief of Staff, Certification Manager, Legislative and Compliance Officer

Estimated Completion Date: January 15, 2018

1. Update the Manual with new regulatory changes and legislative and policy updates from 2014 through effective dates (July 1, 2017).

## AUDIT RESULTS

Based on results and findings of the audit test work conducted of SWaM, OSIG concluded internal controls were operating properly as it relates to SWaM audit objectives except as identified in the report findings.