

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. **Bill Number:** HB1404

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** Ward

3. **Committee:** Passed both Houses.

4. **Title:** Department of Small Business and Supplier Diversity; Small Business Procurement Enhancement.

5. **Summary:** Requires the Department of Small Business and Supplier Diversity (DSBSD) to conduct a disparity study every five years to evaluate the need for enhancement and remedial measures to address the disparity between availability and Commonwealth utilization of women-owned and minority-owned (SWaM) businesses. DSBSD is required to use the results of the study to update a statewide goal for SWaM business procurement for the purpose of closing any identified disparity.

Establishes the Small SWaM Business Procurement Enhancement Program (the Program) with a statewide goal of 42 percent of small SWaM business utilization rate in discretionary spending by executive branch agencies and covered institutions in aggregate, with a five percent utilization rate for microbusiness utilization. Requires a 50 percent small SWaM goal for all new capital outlay in subcontracting in instances where the prime contractor is not a small SWaM business. The program includes small SWaM business set aside for certain purchases of goods, services, and construction by executive branch agencies and covered institutions. The bill also requires SWaM business subcontracting plans for certain proposals and bids. DSBSD, with assistance from the Department of General Services (DGS), the Department of Transportation (VDOT), the Virginia Information Technologies Agency (VITA), and covered institutions, is required to establish a methodology for evaluating plans, carrying out remedial reviews, and producing reliable program measures.

The bill requires that executive branch agencies and covered institution submit to DSBSD a SWaM business procurement plan by September 30, 2024, and annually thereafter. DSBSD is required to review such plans and provide feedback. Executive agencies and covered institutions are also required to designate an existing employee as a SWaM business procurement enhancement liaison.

DSBSD is further required to report to the Governor and the General Assembly on the implementation and effectiveness of the Program annually by November 30. The bill has a general delayed effective date of January 1, 2025, a delayed effective date for covered institutions, and does not apply to certain university hospitals and medical centers.

6. **Budget Amendment Necessary:** Yes. Items 70, 81, 111, 334 HB30/SB30 as introduced

7. Fiscal Impact Estimates: Final. See item 8.

Expenditure Impact: Department of General Services (Item 70)

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024	N/A	N/A	N/A
2025	\$250,000	0	GF

Expenditure Impact: Virginia Information Technologies Agency (Item 81)

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024	N/A	N/A	N/A
2025	N/A	N/A	N/A
2026	\$100,000	1	NGF
2027	\$100,000	1	NGF
2028	\$100,000	1	NGF
2029	\$100,000	1	NGF
2030	\$100,000	1	NGF

Expenditure Impact: Department of Small Business and Supplier Diversity (Item 111)

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024	N/A	N/A	N/A
2025	\$799,202	5	GF
2026	\$598,403	5	GF
2027	\$598,403	5	GF
2028	\$598,403	5	GF
2029	\$598,403	5	GF
2030	\$1,098,403	5	GF

Expenditure Impact: Department of Social Services (Item 334)

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024	N/A	N/A	N/A
2025	\$75,712	0.5	GF
	\$75,712	0.5	NGF
2026	\$73,131	0.5	GF
	\$73,131	0.5	NGF
2027	\$73,131	0.5	GF
	\$73,131	0.5	NGF
2028	\$73,131	0.5	GF
	\$73,131	0.5	NGF
2029	\$73,131	0.5	GF
	\$73,131	0.5	NGF
2030	\$73,131	0.5	GF
	\$73,131	0.5	NGF

8. Fiscal Implications: The bill establishes a new Procurement Enhancement division within the Department of Small Business and Supplier Diversity (DSBSD). The new division is to administer the Small Business Procurement Enhancement Program, and the Women-owned and Minority-owned Business Procurement Enhancement Program. Under each program, the bill requires that DSBSD monitor and guide state agencies and covered institutions in achieving certain statewide procurement participation goals. DSBSD is to develop the framework for these new programs in consultation with the Department of General Services

(DGS), the Virginia Information Technologies Agency (VITA), as well as other state agencies and covered institutions. Impacted agencies and institutions are required to submit their procurement plans to DSBSD. DSBSD is required to produce a progress report annually by November 30.

DSBSD anticipates incurring an expenditure impact as a result of this bill, as it requires the creation of a new division within the agency, in addition to the completion of a disparity study every five years. The new division is to work with state agencies and covered institutions to achieve a statewide goal of 23.1 percent discretionary spending with SWaM businesses and at least 42 percent discretionary spending with certified small businesses. To establish the new division and implement the requirements of the bill, DSBSD estimates that five SWaM Contract Compliance Officer positions will be needed, at roughly \$119,680 each, for a total of \$598,403 annually.

Compliance officers will be responsible for assisting state agencies in meeting the established thresholds. These positions will review subcontract plans from prime contractors to ensure compliance with stated goals, and support SWaM subcontractors that have a grievance with a prime contractor and serve on a panel that would determine if a prime contractor should be enjoined from future contract participation for failure to perform against their subcontractor plans. Officers are also to use data collected by DGS's statewide electronic procurement system, known as eVA, to track and monitor performance. In FY2023, there were 646,763 purchase order transactions in eVA and over \$10 billion in expenditures. The agency anticipates that significant coordination with DGS will be required to ensure accurate reporting and statewide goal achievement.

The bill also requires that DSBSD conduct a disparity study every five years. Based on known costs from a previous disparity study conducted in 2020, DSBSD anticipates incurring an expense of \$500,000 every five years. General fund appropriation for the full amount of the first iteration of the disparity study is required in FY 2025

According to the Department of Accounts, changes to the definition of small business are expected to require minor reconfigurations in the Cardinal Financial System. However, such changes are expected to be able to be absorbed within existing funding and appropriation levels and do not require an amendment.

VITA anticipates that this bill could have a significant impact to contract management. According to VITA, the level of detail required (obtaining and maintaining written explanations, establishing a panel to review failures, additional reporting in eVA , etc.) will require additional funding, estimated at \$100,000 annually, in Supply Chain Management to administer for the roughly 200 statewide contracts. Appropriation is required from VITA's Acquisition Services Special fund to cover this cost.

DGS anticipates that implementing the requirements of the bill may have an estimated one-time general fund impact of \$250,000 for required updates to eVA. DSBSD would have to send DGS additional procurement data through the platform once the bill's provisions are implemented. The system will require an update to the data share algorithm by which eVA

receives data from DSBSD, estimated at \$125,000. New reporting functionality will have to be created for the eVA system, also estimated at \$125,000. This reporting functionality would need to be added to the public eVA system and implemented internally within the platform.

The Department of Social Services' Procurement Unit currently has processes in place for these tasks; however, the increased focus on attaining the goal of 42 percent small business usage will require additional processes, documentation, training, and reporting functions. The processes would include a greater use of small businesses which may increase costs of goods and services for the agency. Additional tasks outlined in the legislation, such as tracking and accounting for sub-contract spend, more stringent requirements for vendors to sub-contract to small vendors, and additional validation and monitoring processes would require a senior procurement officer with a salary of \$98,731 to meet these requirements. The annual cost of this position including salary and benefits is \$151,424 (\$75,712 each general fund/nongeneral funds) the first year and \$146,262 (\$73,131 each general fund/nongeneral funds) each year thereafter. First year costs include one-time on-boarding costs of \$5,163.

Any fiscal impact to public institutions of higher education is indeterminate. The institutions have management agreements and memoranda of understanding that provide the institutions with procurement authority that is removed by this bill. It is anticipated that additional staff will be needed to carry out the requirements in this bill. Estimates range from one to four additional full-time staff.

Conference amendments include \$250,000 the first year from the general fund for DGS to update the state's electronic procurement system; as well as \$1.9 million from the general fund over the biennium, and five positions for DSBSD to carry out the tasks in this bill.

9. Specific Agency or Political Subdivisions Affected: Departments of Small Business and Supplier Diversity, General Services, Accounts, and Social Services; Virginia Information Technologies Agency; all state agencies and covered institutions.

10. Technical Amendment Necessary: No.

11. Other Comments: None.