



THE COMMONWEALTH OF MASSACHUSETTS

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Meeting Minutes

Federal Funds Equity & Accountability Review Panel

Wednesday, March 2, 2022

12:00 – 1:30 p.m.

In accordance with Section 20 of Chapter 20 of the Acts of 2021, this meeting will be conducted, and open to the public, via Zoom and Teleconference:

Zoom URL: <https://mass-gov-anf.zoom.us/j/85375250957?pwd=TkxzazZkUjdNU2ZKWTFFS0tgQlJVOT09>

Password: 493771

Teleconference Line: 713-353-7024, conference code: 319738

A meeting of the Federal Funds Equity & Accountability Review Panel was held via teleconference on Wednesday, March 2, 2022, in accordance with Section 20 of Chapter 20 of the Acts of 2021.

Meeting was called to order at 12:32PM

Panel members comprising a quorum:

Jose Delgado, Panel Co-Chair, Access and Opportunity, Office of the Governor
Nicole Obi, Panel Co-Chair, Coalition for an Equitable Economy
Suzanne Bump, Auditor of the Commonwealth
Amy Nable, Office of the Comptroller
Michael Frieber, Inspector General's Office
Bill McAvoy, Supplier Diversity Office
Kristina Johnson, Chief Data Officer, Executive Office of Technology Services and Security
Julia Gutierrez, Chief Digital Officer, Executive Office of Technology Services and Security
Shaheer Mustafa, Massachusetts Nonprofit Network, Inc.
Leemarie, Mosca, Massachusetts Nonprofit Network, Inc.
Denella Clark, Massachusetts Commission on the Status of Women
Geoff Foster, Common Cause Massachusetts
Gabrielle King Morse, Center for Women and Enterprise, Inc.
Joe Kriesberg, Massachusetts Association of Community Development Corporations
Yasmin Padamsee, Commission on the Status of Asian Americans and Pacific Islanders
Raquel Halsey, North American Indian Center of Boston, Inc.
Bishop Tony Branch, NAACP New England Area Conference
Marie-Frances Rivera, Massachusetts Budget and Policy Center, Inc.
Elizabeth Weyant, Massachusetts Association of Regional Planning Agencies

Members Absent:

Beverley Johnson, Massachusetts Minority Contractors Association, Inc.
Joe Curtatone, Northeast Clean Energy Council, Inc.

Others in attendance:

Kelly Govoni, Executive Office for Administration and Finance, Panel Secretary
Christine Mccarthy, Executive Office for Administration and Finance
Kate Mayer, Executive Office for Administration and Finance
Heath Fahle, Executive Office for Administration and Finance
Judith Bromley, State Auditor's Office
Susan Goldfischer, Division of Capital Asset Management and Maintenance
Phineas Baxandall
Katherine Hillenbrand
Moshe Weitzman

1. Administrative Matters

- I. Ms. Govoni conducted the roll call for the meeting. Co-chair Delgado called the meeting to order and went over some housekeeping items for the meeting.
- II. On a motion from Ms. Bump and duly seconded, the Panel members voted unanimously by roll call vote to approve the February 15, 2022, meeting minutes.

2. Discussion of Subcommittees

- I. Co-chair Obi provided a recap of the Panel's charge and key deliverables mandated for the Panel. Based on the two March deadlines approaching and the work that needs to be done, Co-chair Obi asked if Panel members are open to creating subcommittees, particularly subcommittees around the data and technology requirements for the Panel.

Ms. Gutierrez noted that there is a tight timeline to get the data collection up and a system live and running by July 1st and agreed that a data and technology subcommittee would be useful. She noted that the goal of that subcommittee would be to establish what the tracking system needs to have and what needs to be built, in order to meet the legislative requirements. She noted that the allocation goals will help determine what data needs to be collected, and what types of data visualizations and automating technical processes will be needed. Co-Chair Obi asked if Panel members think we need a data team and a technology subcommittee or if we can tackle both at the same time. Ms. Johnson noted that she would keep those efforts coordinated within a single subcommittee, as she considers it to all be part of the same pipeline. Ms. Bump concurred that it should be one subcommittee.

Ms. Rivera asked for clarification regarding what is meant by the term allocation goals. Co-chair Delgado stated that is for the Panel to figure out and that he would like to discuss that today. Co-chair Delgado noted that once that is figured out, the subcommittee can work based off the goals set by the Panel. Co-chair Delgado reminded members that any subcommittee created, must comply with the same Open Meeting Law requirements as the Panel.

Mr. Bishop Branch explained that for this project, he would want to contact all the CIOs in the Commonwealth that have some piece of this work to get feedback from them. Mr. Bishop Branch expressed his concern on the level of authority that the Panel has and asked if organizations will be responsive to the Panel's requests for information. Ms. Mayer from A&F explained that in looking at the legislation, which is Section 74 of House Bill 4269, it states

that all state and municipal agencies receiving federal funds appropriated under this act shall submit the data required under this section in a time frame established by the Panel and shall comply with any requests from the Panel for information and data necessary to achieve the purposes under that section, so that would be the Panel's authority for state agencies and municipalities to comply with data requests.

Mr. Frieber stated that to add on to Ms. Mayer's point about the Panel's authority, and to impress upon folks the importance of providing the Panel with this information, Part F of the legislation as Section 74 of Chapter 102 of the Acts of 2021, allows the Panel to make recommendations to the Supplier Diversity Office, state agencies, and the General Court as the Panel deems necessary to improve performance on the benchmark and participation goals. Mr. Frieber noted that as far as the Panel's allocation goals, some of the funds have been allocated under Chapter 102 of the Acts of 2021, but Section 83 states that federal funds appropriated under this act means funds expended from the COVID-19 Response Fund. Mr. Frieber stated that the Inspector General's Legal Counsel interpreted this to mean that it applies to all funds that come from the COVID-19 Response Fund.

Ms. Rivera asked if the Panel can make recommendations around allocation goals and establish metrics for the entire pot of the COVID-19 Response Fund? Mr. Frieber explained that according to Section 83, the federal funds appropriated under this act, means funds expended from the COVID-19 Response Fund, which was established under Section 2 JJJJ of Chapter 29 of the General Laws, so any federal funds that come from that is under the purview of the Panel. Mr. Frieber noted that is the understanding of him and his colleagues but is curious what others think of that language.

Mr. Kriesberg commented that he does believe the Panel needs to establish a subcommittee, but that he does not feel the committee can do its job until the Panel establishes what its allocation goals are. Mr. Kriesberg emphasized that March 15th is an absurd deadline, and if the Panel wants to create meaningful, serious goals that make sense in substantially different areas of spending, from childcare to housing, to waste water treatment, the Panel needs more than two weeks.

Co-chair Delgado noted that there is an agreeance on establishing a Data and Technology subcommittee and asked if the Panel is comfortable moving forward to a vote.

Mr. Bishop Branch moved for a motion to vote on a Data and Technology subcommittee, inclusive of this body, one of whom will be a lead or a co-chair, and as a part of the creation of the subcommittee, the Panel shall define the specific mission of that subcommittee with respect to the collection of the data that is going to be required of this Panel. Motion duly seconded by Ms. Mosca. Ms. Govoni conducted a roll call and Panel members voted unanimously to approve a Data and Technology subcommittee. Ms. Gutierrez noted that she would like to volunteer as co-lead with Ms. Johnson. Co-chair Delgado instructed Panel members to email Ms. Govoni if they would like to volunteer to be on the Data and Technology subcommittee.

Ms. Rivera suggested that the second subcommittee be titled Equity Metrics and for it to be in charge of establishing metrics to track, which will then be shared with the Data and Technology subcommittee. On a motion made by Mr. Bishop Branch and duly seconded by Mr. McAvoy, the Panel established the creation of a second subcommittee, titled Equity Metrics. Ms. Govoni

conducted a roll call and Panel members voted unanimously to approve an Equity Metrics subcommittee.

3. Discussion of Allocation Goals

- I. Mr. McAvoy, the Executive Director of the Supplier Diversity Office (SDO), provided an overview of SDO's scope and work. Mr. McAvoy noted that SDO certifies diverse businesses and has programs that they try to connect the diverse businesses to participate in, as well as making resources available to those businesses to help them succeed in those opportunities. Mr. McAvoy noted that SDO oversees the Supplier Diversity Program, which is a program for goods and services procurements. The program places benchmarks on state agencies. The benchmarks are for minority businesses, women, and veterans. Mr. McAvoy explained that of state agencies discretionary spending, 8% should be spent with minority business enterprises, 14% should be spent with women business enterprises, and 3% should be spent with veteran business enterprises. Mr. McAvoy noted that the way the program works on the vendor side, is that all prime bidders are required to include in their bid, a percentage of their spend that they are going to make available to diverse businesses as part of their Supplier Diversity Program Plan. This means that every bidder needs to submit a percentage of their revenue that will go towards diverse businesses. Mr. McAvoy explained that when prime bidders are bidding on these contracts, 25% of the available points that they are going to receive in their bid are for the Supplier Diversity Program Plan. Related to that, when statewide contracts are issued by the Operational Services Division (OSD) and when agencies are buying from those statewide contracts, they are more likely to use a diverse business that is already certified, or someone that has a much higher level of commitment.

Mr. McAvoy then moved on to explain the Small Business Purchasing Program, which applies to small procurements under \$250,000 a year. He explained that the contract should be awarded to small Massachusetts businesses by an agency conducting the procurement that meets the criteria for the agency. In order to hit their benchmark, agencies must spend 3.3% of their spending on small Massachusetts businesses. While SDO is certifying businesses as diverse, they are also doing the small business certification. Mr. McAvoy noted that a very high percentage of their small business participants are also certified diverse businesses.

The third program SDO has is the Municipal Affirmative Marketing Program, which is a construction program. The state provides funding to municipalities for construction projects. Ms. Goldfischer from the Division of Capital Asset Management and Maintenance (DCAMM), then provided an overview of the Municipal Affirmative Marketing Program. Ms. Goldfischer noted that in the 80's the Commonwealth initiated its first Affirmative Market Program. Ms. Goldfischer explained that DCAMM has done three disparity studies, the most recent being in 2017. The way they set goals for the program is based on the actual availability of minority business enterprises and women business enterprises in the construction trades. Ms. Goldfischer noted that for all of DCAMM's construction projects and the design services for their construction projects, they set project specific goals for each project. DCAMM sets goals for every state project and for municipal projects they work with SDO. Ms. Goldfischer noted that they set goals at the outset of a project, put it in the legal advertisements and when proposals come in, they have an insurance from that vendor for a commitment to meet those goals. DCAMM's website has additional information, including the disparity studies mentioned above.

Co-chair Delgado asked if Mr. Fahle from A&F had an answer to the question Mr. Frieber raised earlier in the meeting. Mr. Fahle noted that A&F would concur with Mr. Frieber's assessment that the Panel's scope includes all of those funds that are in the COVID-19 Relief

Fund created by the legislature back in June, which covers approximately \$4.9B of the \$5.3B made available to the Commonwealth through the federal government. The Chapter 102 piece of legislation that created this panel allocated \$2.55B dollars from that \$4.9B and the balance of that allocation is still yet to be appropriated by the legislature. The goals and the metrics that are created by this Panel would apply to those funds, which are \$4.9B in total. Regarding the \$2.55B that has already been appropriated, this is one area where different sections of the law are out of sync with each other. Mr. Fahle noted that what the A&F team is doing now, is going through the \$4B in programs that were appropriated in Chapter 102 and evaluating them for eligibility under the federal rules. This will ultimately determine whether federal funds or state funds will be used to support each program. A report on this is due to the legislature by March 31st.

Co-chair Obi asked if Mr. Fahle could elaborate on this process. Mr. Fahle explained that the State Fiscal Recovery Fund dollars are administered by the U.S. Department of the Treasury. The Treasury is responsible for taking the statute that created the funds and building regulatory regime around it to govern the use of the funds. The Treasury has defined four major eligible use categories and A&F must use these categories and criteria to evaluate programs to determine if federal funds can be used to support those programs. Mr. Fahle explained that agencies are in the process of program design and then A&F evaluates those program plans in comparison to the federal regulation and determines if they align with the federal rules, or if they will need to use state dollars to support those programs. The Chapter 102 legislation requires that A&F submit a report on those allocation decisions by March 31st, 2022.

Ms. Rivera asked if the \$2.3B dollars unspent, is part of the purview of the Panel? Mr. Fahle noted that the unappropriated \$2.3B dollars is within the purview of this Panel's charge and the Panel would be creating allocation goals that would address both programs that were already authorized by the legislature as well as for programs that will be authorized by the legislature in the future.

Co-chair Delgado asked Panel members their thoughts on the deadlines set in the legislation. Ms. Bump noted that the Panel should do their best to adhere to the deadlines set, but there are certain realities the Panel must consider. Ms. Bump noted that a letter to the legislature informing them of the Panel's progress would be an appropriate step to take, to show the Panel is working to meet the deadlines. Ms. Nable noted that another option would be to see if the legislature would be willing to amend the legislation to extend the deadlines. Ms. Weyant suggested that when the Panel writes to the legislature, it should provide an update on the Panel's work, and should also request an extension of the deadlines.

Ms. Nable noted that the best approach would be to assign the task of drafting a letter to a single person, which will be shared with members and then reviewed at the next meeting. Co-chair Delgado stated that he would draft the letter for the Panel to review at the next meeting.

Co-chair Delgado asked Panel members who are interested in serving on either subcommittee to email Ms. Govoni.

4. Next Steps

- I.** Ms. Govoni will send out an email to all Panel members regarding the subcommittees established at the meeting. The next meeting is scheduled for March 14th, 2022, from 2:00PM-3:30PM.

5. Adjournment

I. The meeting was adjourned at 1:33PM.

Kelly Govoni, Secretary