CONNECTICUT
Administrative Services

**Senate Bill 1518**

**AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE STATE DISPARITY STUDY**

**Testimony of the Department of Administrative Services**

**Government Administration and Elections Committee**

**March 21, 2025**

Senator Flexer, Representative Blumenthal, Senator Sampson, Representative Mastrofrancesco, and distinguished members of the Government Administration and Elections Committee. We thank you for the opportunity to testify on **Senate Bill 1518: An Act Implementing the Recommendations of the State Disparity Study,** which provides recommendations based on the Disparity Study that was released earlier this year.

At the outset, we want to commend the legislature for supporting this comprehensive review and to CHRO for leading this study. We understand the importance of this effort to ensure equitable access to state contracts for small and minority businesses, and the DAS team was proud to partner with OPM and other state agencies throughout the study's duration.

However, the Department of Administrative Services (DAS) **opposes** Senate Bill 1518 due to concerns about the sections on the procurement of goods, services, and construction.

As background, the DAS Supplier Diversity program helps businesses navigate state and federal contracting opportunities. Our team supports the Small/Minority Business Enterprise (S/MBE) certification program and the Contractor Prequalification Program (CPP) to help businesses grow revenue and contribute more to the state economy.

Just last year, the staff conducted 77 outreach opportunities across the state, including 33 in-person and online training sessions. Outreach is predominately conducted with federal and other state partners, non-profit organizations, chambers of commerce and others dedicated to the mission of growing our small business community.

The DAS Supplier Diversity team also supports sourcing efforts with the procurement team to encourage greater participation from local, regional, and national businesses of all sizes. This outreach informs the business community of the contract opportunity that is available.

In addition, DAS recently launched a modernized S/MBE certification application on our new platform, CT Gateway, to make the process more efficient and accessible, including a mobile-friendly application.

Finally, to enhance transparency in our certification program, DAS has made Supplier Diversity data available on a new dashboard on the state's Open Data Portal. Viewers can see historical trends in certification, number of certified businesses by municipality, certified businesses by types of products and service, and a map of certified businesses.

With respect to our opposition, we have outlined our concerns below:

**DAS Concerns with Proposed Goods and Services Procurement Changes**

Section 3 of the proposed bill mandates that DAS determine the "total value of contracts….to be set aside by each such agency to attain parity with the percentage of available small contractors and minority business enterprises in the relevant industries in the state." DAS has several concerns with this section, as follows:

- **DAS is not able to determine the "total value of contracts . . . to be set aside by each such agency"** – DAS is not able to determine this value because DAS does not have oversight over the spending or budgets of other agencies, nor does it control agency purchases. Under current law, DAS is able to support agencies in identifying the applicable agency spend under this program because the set aside is a *percent* of their purchases, instead of a *value* of their contracts.

- **It is not clear how the "availability" of contractors in relevant industries will be calculated –** It is not clear how DAS and CHRO would identify the small and minority contractors available "in the relevant industries in the state." According to the study, "availability" is defined as: (1) the firm does business within an industry category from which the State of Connecticut makes certain purchases, (2) the firm's owner has taken steps (such as registering, bidding, certifying, prequalifying, etc.) to demonstrate interest in doing business with government, and (3) the firm is located within the relevant geographical market area. DAS would need additional resources and clarification to determine availability and additional information as to how the relevant industries are defined.
- **Even if DAS could calculate "availability," DAS cannot guarantee that "available" small and minority contractors within relevant industries will participate in state contracts** – Currently, DAS takes an active role in solicitations by reaching out to businesses when that business' good or service will be subject to a solicitation. This outreach informs the business community of the opportunity; however, DAS cannot guarantee business interest or response. As such, DAS cannot forecast the makeup of businesses within its contract portfolio, nor can it impose purchasing requirements on agencies when the participation/award is dependent on outside variables such as business community interest and competitive responses/bids.
- **A definition of "parity" is required** – It is not clear what "parity" means in this section of the proposal. In order to implement this section, DAS would require more information on how "parity" is being defined, how "parity" should be calculated, and what the remedy is, if any, if a contractor disagrees with such calculations.
- **The program as proposed would cause undue delays in contracting** – Currently, DAS utilizes the United Nations Standard Products and Services Code (UNSPSC) to identify industries and the extensive subgroups within each industry. The bill would require DAS to establish goals for the "relevant industries in the state," without guidance on identifying such industries. At a minimum, DAS would be including the hundreds of UNSPSC to calculate goals for industries on state contract. Once the methodology for determining industry "availability" is clarified, DAS would need time to complete these calculations, implement the program and disseminate the resulting percentages to agencies.
- **Clarification is required on the bill's effective date** – DAS recommends that the effective date be modified to read "*Effective for contracts solicited on and after X date*." Due to the vast number of changes DAS would be required to make to implement such a new program, we request that the implementation date be pushed back significantly.

**DAS Concerns with Proposed Construction Procurement Changes**

- **Section 3 of the proposal creates confusion about what processes apply to municipal and state public works contracts –** Under current law, 4a-60g(b)(3) relates to *municipal* public works projects and 4a-60g(b)(2) relates to *state* public works projects. Section 3 of the bill eliminates this distinction and applies both of these sections to *all* public works projects – both state and municipal. This change creates two parallel and conflicting processes.
- **If the process identified in subparagraph (2) applies to state public works contracts, DAS has the same concerns with this provision as articulated above relating to goods and services contracts.**
- **If the process identified in subparagraph (3) applies to state public works contracts, DAS has the following concerns:**
    - **The proposed program would cause undue delays in construction** – The proposal contemplates the awarding agency having to wait for CHRO to set specific goals *for each contract*. The proposal does not include a timeline for CHRO to do this work, and it is unclear how long it will take them to set such goals. With no deadline, there could be delays in getting invitations to bid published, which will cause delays in project completion.
    - **The definition of "availability" in lines 336-340 of the bill is problematic –** While the term "available" is not defined in subparagraph (2) as described above, the definition of "availability" in subparagraph (3) is problematic because it presumes that all certified small and minority business enterprises certified by DAS (and thus deemed "available") are bidding on all contracts, and bases the set-aside goals on that assumption. This proposal could lead to the setting of unrealistic goals for contractors.
    - **The proposal does not contemplate a situation in which no bidders submit proposals that meet said set goals –** If a set-aside goal is set by CHRO on a contract-by-contract basis, and none of the bidders meet the goal, it is not clear how a state agency should proceed. Presumably, the agency will have to continue re-advertising until a bidder meets these goals, creating delays in construction and additional administrative burden for agencies.

Beyond the concerns identified above, DAS would require additional procurement, legal, and support staff to implement these changes and develop the exponentially larger number of required goals. A consultant would also need to be on contract to develop the program in the statutorily prescribed timeframe. These staffing and operational costs are not funded in the Governor's proposed budget for FY 26-27.

We thank you for the opportunity to submit testimony and share our thoughts with the Committee.