

The Honorable Cliff Rechtschaffen
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

July 20, 2021

RE: LGBT Business Enterprises (R.21-03-010)

On behalf of the entire team at BuildOUT California, I would like to sincerely thank you for working towards establishing a procurement goal for Lesbian, Gay, Bisexual, and Transgender Business Enterprises (LGBTBEs). As you may be aware, BuildOUT California is an LGBT Industry Association dedicated to the sustainable growth of LGBT-owned and certified businesses in the fields of Architecture, Engineering, Construction Services, Real Estate Development, and related industries. Several of BuildOUT California's Founders were instrumental in the passage of 2014's Assembly Bill 1678, which expanded the California Public Utilities Commission's Supplier Diversity Program to include LGBTBEs.

We are currently at the precipice of procurement goals being established for LGBTBEs. BuildOUT California would like to see an aspirational procurement goal rightfully recognizing the LGBT community as a robust participant in California's economic vitality. We respectfully urge the Commission to establish an aspirational goal for the LGBTBEs at 1.5% or higher.

Aside from our previous arguments submitted to the California Public Utilities Commission (CPUC) on the topic of LGBTBE goal setting, we would like to provide an empirical basis for selecting a 1.5% or higher procurement goal. Rather than create a separate report, BuildOUT California utilized and reviewed the Joint Utilities LGBTBE Spend Analysis (distributed by the Joint Utilities on Thursday, July 30, 2020 at 8:31 AM), covering the period between 2016 through 2019, in which the utilities that the information was provided to "leverage data-driven insights to discuss challenges, opportunities, roles/responsibilities, and next steps to further advance LGBT supplier inclusion, targeted programs, and appropriate goals/metrics."

To examine this data, the report surveyed supplier availability. One chart showed the number of business enterprises for LGBT, women, minority, dual registered women/minority, and disabled veteran businesses. The same chart looked at spending in the top 10 spending categories (although it did not have figures available for disabled veterans). Unfortunately, this precluded BuildOUT California from comparing LGBTBEs to disabled veteran business enterprises, since there is no data available regarding the number of firms covering the top 10 utility spending categories. BuildOUT California could not look at the data individually based on how the report data was presented.

Nevertheless, BuildOUT California was able to aggregate the figures to establish a baseline, with a combined procurement goal of 20% for women and minority-owned businesses enterprises. According to Joint Utilities Spend Analysis (2016-2019), women and minority-owned businesses account for 6,140 firms for the pool of companies to reach the 20% procurement goal (2,529 MBE, 2,444 WBE, and 1,167 WMBE). While women and minority-owned businesses exceeded the 20% procurement goal, BuildOUT California decided to look at the 6,140 count as the floor needed to reach a 20% goal. Using this as the scale, BuildOUT California extrapolated the numbers and determined that there must be at least 461 business enterprises needed to reach a 1.5% procurement goal. The Utility Spend Analysis report states that LGBTBEs represent 509 firms- a figure that clearly exceeds the number of businesses required to achieve a 1.5% procurement goal.

Not all businesses can provide the services the utilities need. Similar to the Joint Utilities Spend Analysis, BuildOUT California examined the top 10 utility spending categories, using the same comparative analysis to determine that women and minority-owned businesses account for 4,043 Business Enterprises in the top 10 categories the utilities need. If 4,043 business enterprises provide 20% of the procurement needs in the top 10 utility categories, only 303 businesses enterprises are required to cover a 1.5% procurement goal. According to Joint Utilities Analysis, there are 303 LGBTBEs in the top 10 sectors.

These figures illustrate that there appears to be sufficient quality and quantity needed for LGBTBEs to meet a procurement goal of 1.5%.

Yet despite the quality and quantity of businesses rising each year, LGBTBEs accounted for 0.17% of utility procurement in 2019.

BuildOUT California believes that the procurement problem exists due to a significant portion of utilities that are simply not making an effort. In the 2019 Utilities Procurement of Goods, Services and Fuel from Women-, Minority-, Disabled Veteran-, and LGBT- Owned Business Enterprises Report, nearly one-third of the utilities did not procure a single LGBTBE contract. Apparently, these utilities could not find even one of the 509 LGBTBE firms suitable for a contract. This under-performing by the utilities is clearly not acceptable, and it should not be countenanced by the Commission.

Finally, the Utilities Joint Spend Report reported the top 10 categories that LGBTBEs were contracted over the four year period, "Five of top ten SIC codes for LGBTBE spend represent key purchasing categories for the utilities." However, if by scale there are more than enough LGBTBEs to meet and exceed a 1.5% procurement goal and address key utility categories, then the real question is, why are utilities choosing not to contract with LGBTBEs?

Whether it is apathy or bad faith - without a clear goal, there is simply no incentive for utilities to hire LGBTBEs. For example, most of the nine utilities that did not procure a single LGBTBE in 2019 highlighted their efforts to meet the goals of General Order 156. In fact, one utility wrote in its annual diversity report, "For the 14th consecutive year, ... (we) exceeded the 21.5 percent minimum goal established by General Order (GO) 156 for procurement with California Clearinghouse-Verified diverse suppliers." With an exemplary record at meeting the CPUC's supplier diversity goals, this same company did not procure from a single LGBTBE firm. The utility is not facing any sort of repercussions for failure to comply, simply because no goal exists. The utility has no goal against which to benchmark its performance.

In conclusion, the Joint Utilities Report shows that there are ample LGBTBEs to meet and exceed a 1.5% procurement goal when compared to the number of women and minority-owned businesses. Similarly, the same figures illustrate that there are also sufficient LGBTBEs to address the top 10 utility spending categories. The only thing missing is having a Commission-established aspirational goal to encourage the utilities to procure LGBTBEs. By establishing an aspirational goal, the Commission can provide equity for the LGBT community while spurring economic growth throughout our great state.

Thank you for your consideration of this vital issue. If you have any questions, please contact me at: paulpendergast@buildoutcalifornia.org.

Sincerely,

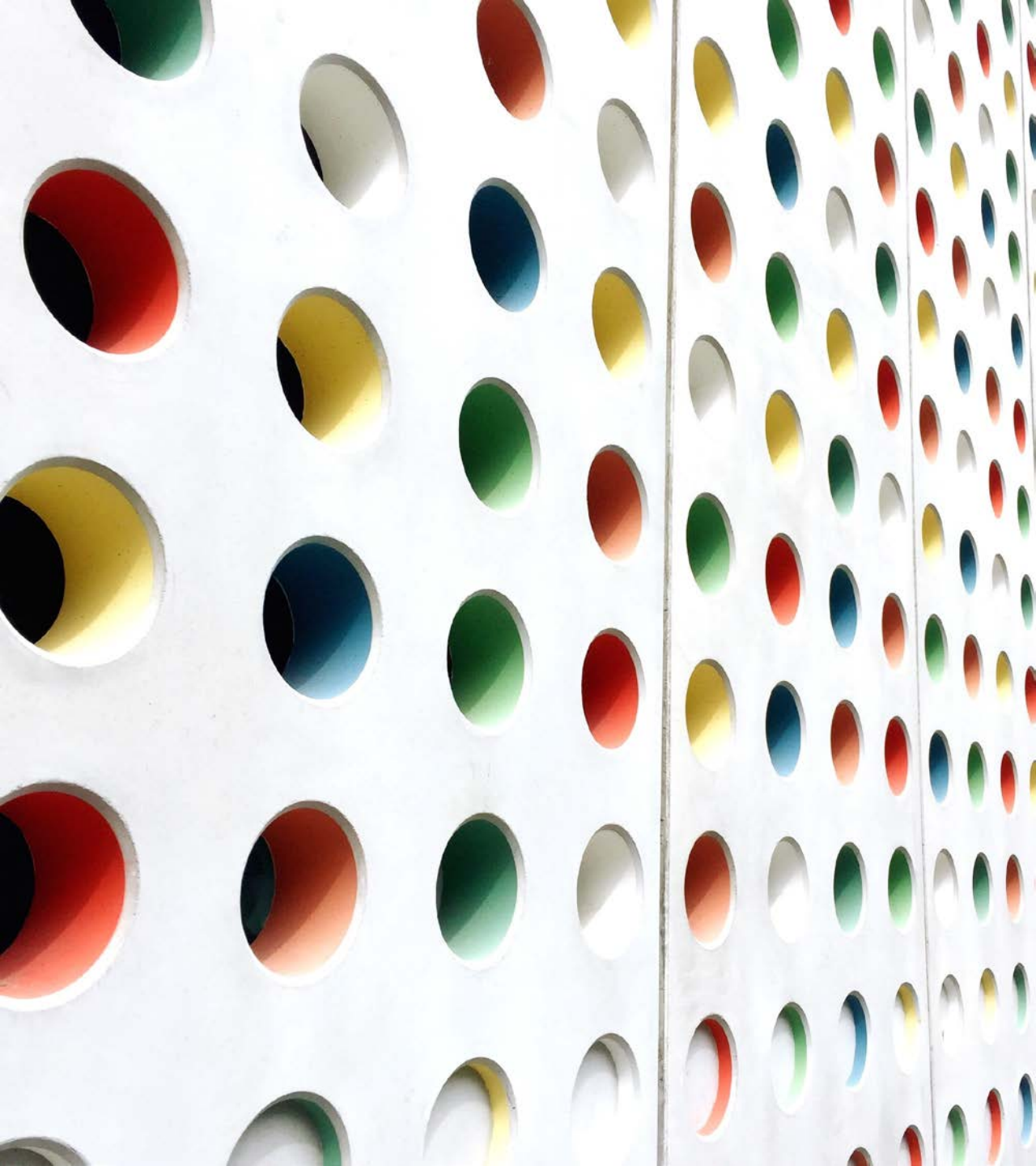


Enclosures:

Exhibit 1 - The Joint Utilities LGBTBE Spend Analysis 2016-2019

Exhibit 2 - BuildOUT California Analysis of Joint Utilities Spend Report

Exhibit 1 - The Joint Utilities LGBTBE Spend Analysis 2016-2019



The Joint Utilities

LGBTBE SPEND ANALYSIS, 2016-2019

The Joint Utilities (JU) is a group of industry professionals representing 29 CPUC regulated utilities, gathering periodically to discuss issues and share best practices specific to supplier diversity program activities and advancing opportunities for diverse business enterprises.

Background

PURPOSE

- Continuation of LGBTBE inclusion discussion hosted by the California Public Utilities Commission (CPUC) in January 2020; Joint Utilities to complete analysis and share information with key partners and stakeholders

OVERVIEW

- **Scope:** Review spend and supplier availability data between 2016 and 2019
- Aggregate of spend data provided by 18 of 29 utilities participating in the Joint Utilities group, segmented by utility sector – Water, Communication, and Energy
- Analysis focused on key purchasing categories, spend trends, supplier availability, marketplace competition, etc.
- Additional details and other information can be found in the supplier diversity annual reports of each utility; posted on the CPUC website

FOCUS FOR TODAY

- Leverage data-driven insights to discuss challenges, opportunities, roles/responsibilities, and next steps to further advance LGBT supplier inclusion, targeted programs, and appropriate goals/metrics

Highlights

- Partnerships built with eight local, regional and national LGBT advocacy organizations
- More than \$1.3 million contributed through membership and sponsorship support*
- Over 500 certified LGBT-owned businesses in the Supplier Clearinghouse database
- Recorded spend with more than 50 unique LGBT-owned firms across multiple purchasing categories
- Since reporting began in 2016, LGBTBE spend has increased 53%

* Represents the funding support of nine utilities.



Objectives



TO REVIEW SPEND ACTIVITY FOR EACH UTILITY SECTOR, FOCUSING ON KEY PURCHASING CATEGORIES.



TO ASSESS THE MARKETPLACE AVAILABILITY OF LGBT FIRMS ACROSS PURCHASING CATEGORIES.

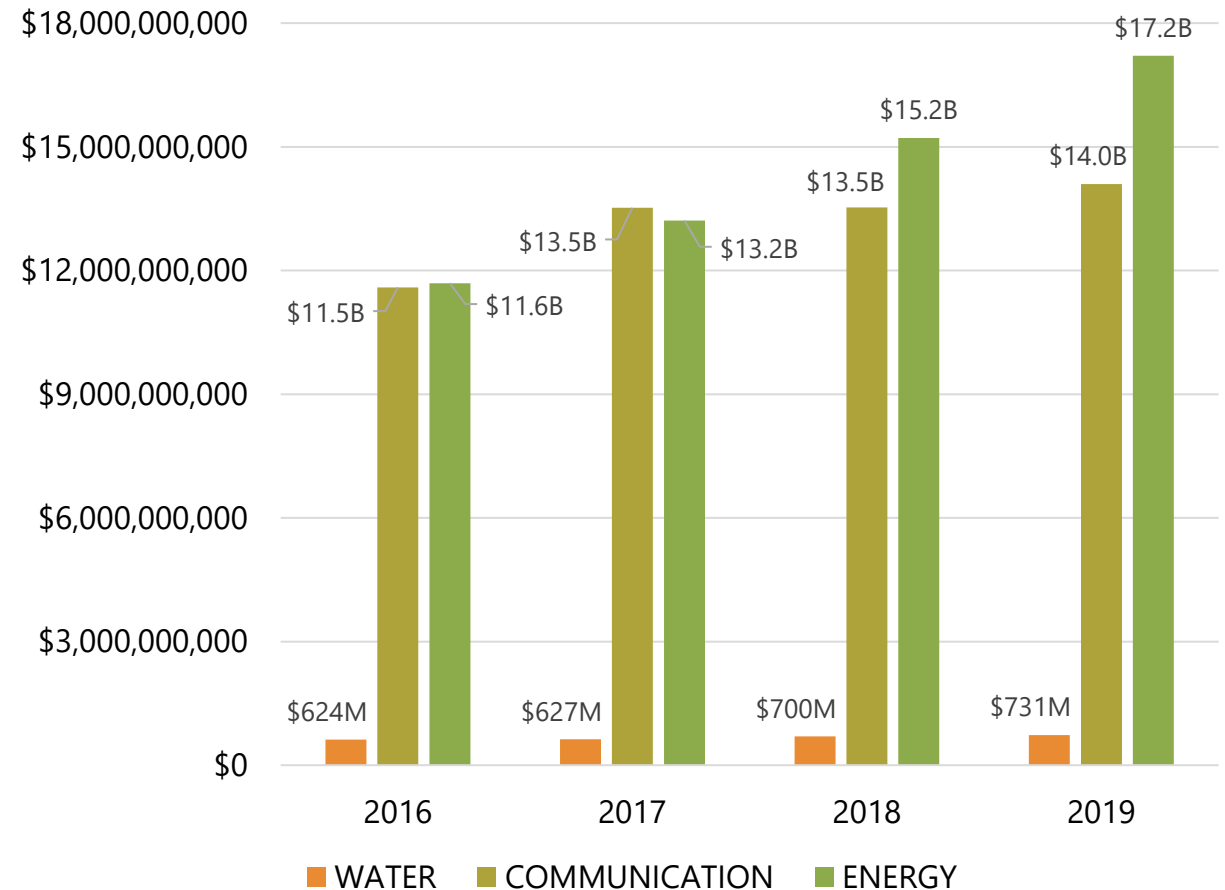


TO EVALUATE NEXT STEPS AND THE REASONABLENESS OF A LGBTBE SPEND TARGET.

Total Procurement Spend by Utility Sector

TOP TEN SIC CODES (based on 4-year spend total)

- 73. Business Services
- 36. Electronic & Other Electric Equipment
- 87. Engineering & Management Services
- 16. Heavy Construction Other than Building
- 50. Wholesale Trade – Durable Goods
- 17. Special Trade Contractors
- 15. General Business Contractors
- 35. Industrial Machinery and Equipment
- 07. Agricultural Services
- 76. Miscellaneous Repair Services



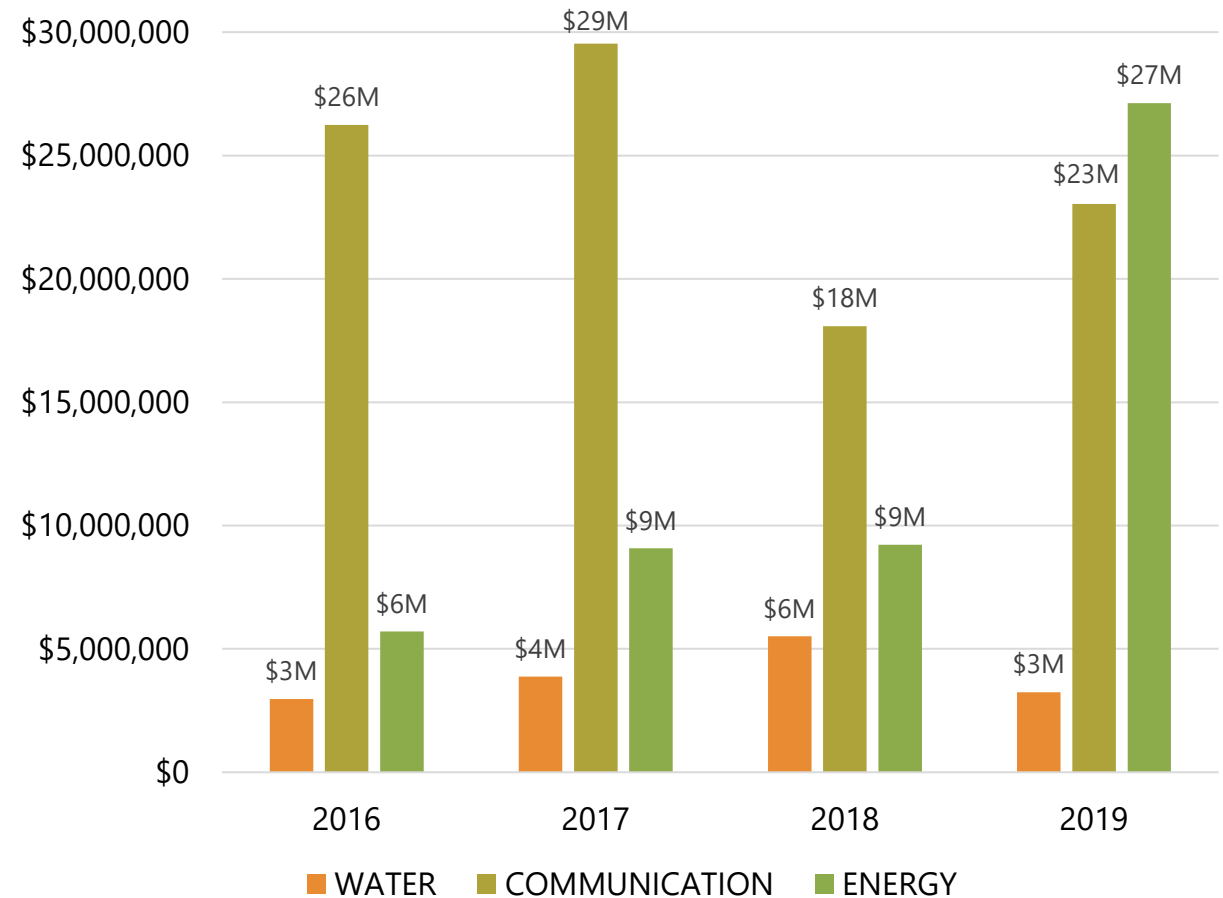
HIGHLIGHTS

- Water Sector: Primary spend drivers – SIC codes 16 and 17.
- Communication Sector: Primary spend drivers – SIC codes 36, 73, and 50. Spike in 2017 associated with codes 48, 76, and a portion defined as unclassified.
- Energy Sector: Primary spend drivers – SIC codes 73, 87, 16, and 15. Upticks in 2018 and 2019 driven by increases in the Business Services and Agricultural Services categories.
- NOTE: The recording and reporting practices may differ among the utilities.

Total LGBTBE Spend by Utility Sector

TOP TEN SIC CODES (based on 4-year spend total)

- 73. Business Services
- 84. Museums, Botanical, Zoological Gardens
- 87. Engineering & Management Services
- 16. Heavy Construction Other than Building
- 36. Electronic & Other Electrical Equipment
- 46. Pipelines, Except Natural Gas
- 50. Wholesale Trade – Durable Goods
- 48. Communications
- 51. Wholesale Trade – Non-Durable Goods
- 81. Legal Services



HIGHLIGHTS

- Five of top ten SIC codes for LGBTBE spend represent key purchasing categories for the utilities.
- Water Sector: Primary spend drivers – codes 16 and 73. Significant decrease in 2019 with the Business Services category.
- Communication Sector: Primary spend driver is Business Services.
- Energy Sector: Primary spend drivers – codes 84, 73, and 87. Significant increase in 2019 with both the Business Services and Engineering & Management categories.

Supplier Availability

TOP TEN SIC CATEGORIES (based on JU spend)	LGBTBE (509)	LGBTBE Ratio (%)	MBE (2529)	WBE (2444)	WMBE (1167)	DVBE (1805)
73. Business Services	97	19%	477	402	244	N/A
36. Electronic & Other Electric Equipment	4	.79%	65	38	15	N/A
87. Engineering & Management Services	161	32%	497	534	268	N/A
16. Heavy Construction Other than Building	4	.79%	105	98	30	N/A
50. Wholesale Trade – Durable Goods	9	1.8%	97	107	39	N/A
17. Special Trade Contractors	9	1.8%	321	224	72	N/A
15. General Business Contractors	7	1.4%	105	58	32	N/A
35. Industrial Machinery and Equipment	4	.79%	38	37	16	N/A
07. Agricultural Services	7	1.4%	41	39	16	N/A
76. Miscellaneous Repair Services	1	.20%	14	12	2	N/A

- 8,310 unique firms certified with SCH, including disabled-veteran firms
- 166 LGBT firms certified via SCH process; 343 firms added via NGLCC “data transfer” MOU
- Significant market competition among diverse business enterprises
- Opportunities to increase the market availability of LGBT firms across key SIC categories
- Utilities only report spend with firms certified through SCH and DGS (for DVBE)

Data Source: The Supplier Clearinghouse (SCH), as of July 22, 2020

- Counts reflect number of diverse suppliers listing the associated SIC code as their primary good or service capability.
- A supplier profile may include multiple SIC codes, however, only a single code can be listed as primary for the firm.
- DVBE suppliers are certified via the CA Department of General Services (DGS), SIC codes and/or category associations are unavailable.
- MBE, WBE, and WMBE counts may include firms that are separately certified as DBVE and LGBTBE.

Considerations & Opportunities

CONSIDERATIONS

- Per General Order 156, only certified LGBTBE firms in the Supplier Clearinghouse database can be included in the utilities spend performance calculation
- Progress and/or success should be defined through a variety of metrics; LGBTBE spend and other program activities are currently tracked and reported annually
- Wide consensus among key stakeholders – shared commitment and shared actions are critical to advance and sustain LGBTBE supplier inclusion

OPPORTUNITIES

- Grow LGBTBE marketplace and drive certification with the Supplier Clearinghouse
- Support development opportunities to grow capabilities and build capacity with LGBTBE firms in key purchasing categories
- Organize and sponsor targeted LGBTBE outreach and engagement activities, such as “Meet the Primes” matchmaking events

Exhibit 2 - BuildOUT California Analysis of Joint Utilities Spend Report

JOINT UTILITY MR EXTRAPOLATIONS



	MINORITY BE *	WOMEN BE *	DUAL REGISTERED W/M BE *	TOTAL WOMEN /MINORITY BE	IF WOMEN/MINORITY BUSINESSES REPRESENT 20% THEN THIS IS THE 1.5% GOAL FOR BEs	LGBTE BE *	ARE LGBT BEs ABLE TO MEET OR EXCEED THE 1.5% GOAL
TOTAL NUMBER OF REGISTERED BUSINESSES	2,529	2,444	1,167	6,140	461	509	✓
FIRMS COVERING TOP 10 UTLITY SPENDING CATEGORIES	1,760	1,549	734	4,043	303	303	✓
NOTE: * THE FIGURES COME FROM THE JOINT UTILITIES LGBTBE SPEND ANALYSIS							