



OHIO TURNPIKE AND INFRASTRUCTURE COMMISSION

OFFICE OF EQUITY AND INCLUSION

2020-2021 Annual Report



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INTRODUCTION

The Commission has implemented numerous efforts to diversify the companies under contract. In the 2018-2019 Annual Report from the Office of Equity and Inclusion (“OEI”), we highlighted Commission Resolution Nos. 18-2014 and 43-2016, approved to adopt the current Business Inclusion Program (the “Program”). The Commission recognizes that its Program is still maturing. Therefore, 2020-2021 presented achievements in the Commission’s cultural change in the following ways:

This Annual Report focuses on progress made toward the following objectives set for 2020-2021:

1. 2016 Recommendation: The Program must continually strive to capture all data from all contracts. This recommendation includes small contracts, (which are defined as a contract that requires the Commission to spend less than \$50,000), purchase card transactions, revenue generating concession agreements and janitorial services agreements. The OEI has made changes to policy to capture data from concession agreements and janitorial services agreements, but still needs to establish methods for capturing data for small contracts and purchase card transactions.
2. Additional training and education of Commission personnel is needed to familiarize staff that do not routinely interact with large or project-based contracts. This recommendation is vital to integrate the OEI requirements into the Commission’s various operational units at the initial planning stages of the procurement. Regular briefings and informational sessions would help staff become aware and accustomed to using the outreach tools available to them. This recommendation is ongoing because continual improvement on communication and coordination between the various departments and OEI is needed based on staffing changes, procurement process improvements and technology upgrades.
3. 2016 Recommendation: The assistance of Commission staff in establishing contract-specific goals is essential to creating highly targeted participation objectives that are reasonably achievable through good faith efforts. Identifying the opportunities for participation, past performance on similar projects, and the availability of certified firms to capitalize on those opportunities is crucial and difficult to perform without the assistance of the requisitioning department. The OEI saw improvement in this area, regularly meeting with project managers and department staff before a project was advertised to discuss, review and in some cases modify a proposed SBE goal.
4. 2016 Recommendation: Data collection and reporting must be standardized so each annual report is comparable to the next. 2020-2021 Status: The Contracts Administration Department’s Standard Operating Procedures include those actions necessary and appropriate to achieve the Program’s goals, specifically ensuring the OEI is contacted at project inception for input and goal setting at the outset. These improvements in process have enhanced implementation of the Program requirements as well as collaboration and communication between departments. As with all SOPs, procedures must continue to be followed to effectively achieve the goals, which is especially important when awarding a contract and monitoring

contractor's progress towards achieving the Program targets. The Contracts Administration Department must continue its strong support of the Office of Equity and Inclusion in creating and applying Standard Operating Procedures and coordinate the assistance of other departments as necessary to implement and carry out the procedures.

Throughout 2020-2021, the OEI tracked and monitored certain awarded large contracts through its web-based certification and compliance system (B2Gnow) and implemented new policy and procedures to better manage the Program. In addition, the OEI incorporated the Commission's Purchasing Offices vendor registration portal into its monitoring process. The OEI also enhanced subcontractor reporting and subcontractor final payment confirmations through modifications to the B2Gnow program. This Annual Report summarizes the data captured through the systems to evaluate the effectiveness of the OEI policies and procedures.

METHODOLOGY

The Office of Equity and Inclusion monitors the Commission's Professional Services, Construction and General Good and Services contracts to ensure the OEI policies and procedures are followed. The OEI ensures that firms certified for Program participation have access to contract notifications and opportunities, and that Commission contractors, consultants and vendors use their Good Faith Efforts to use certified firms.

Data collection is initiated at the beginning of each bid, proposal and purchase order. Where opportunity and availability of certified firms exist, a participation goal is set for large contracts, which generally include all contracts that require the Commission to expend over \$50,000 over the term of the contract. Each respondent or bidder must agree to a commitment to meet the goal or satisfactorily demonstrate its good faith efforts to achieve the goal. Upon award of each contract, the OEI monitors the participation through contract completion to track progress towards fulfilling the commitment to participation.

The process for gathering the results for this report were collected using the following sources:

1. 2015-2016 Disparity Study Recommendations (the "Disparity Study")¹
2. Business to Government (B2Gnow) Certification and Compliance System Reporting²
3. Aptean Financial System Payments³
4. Manual Data Collection using hardcopy and electronic file storage

¹ 2015-16 Ohio Public Authorities Disparity Study

² B2GNow is a diversity management and compliance software utilized to process applications for Business Enterprise certification, track certified SBE, perform outreach and monitor contract compliance.

³ Aptean is a software program used to track inventory items, accounts receivable, accounts payable, purchasing cards and fixed assets.

Business Inclusion Program

The Commission developed the Program to promote participation of small businesses, including those owned by minorities and females. The Program was designed to remedy past and ongoing effects of discrimination arising from barriers in the marketplace described within the Disparity Study that minority and female owned businesses encounter.

Certification

The OEI Contracts Compliance Coordinator reviews a vendor’s application submitted using the certification and compliance software system for its qualifications to obtain certification. To follow the Disparity Study recommendations and the legal restrictions on race and gender classifications, the Commission certifies Small Business Enterprise (SBE) to receive the benefits of the Business Inclusion Program without regard to race or gender. However, firms that are owned and controlled by minorities and females are eligible for certification based on less restrictive standards. Female owned firms are qualified for certification as Disadvantaged Business Enterprises (DBE) using higher annual gross revenue limits, and Minority Business Enterprises (MBE) have no maximum annual gross revenue restrictions on certification.

To ensure interoperability and shared certification services while establishing a viable pool of available firms for prime contractors to draw upon, the Program has a “Fast Track” application process to recognize certification from partnering entities. Only the partnering entities that grant a certification using requirements that are substantially similar to the Commission’s standards are accepted through the “Fast Track” process. Staff members from each partnering entity are trained specialists in certification who review applications and conduct on-site visits for businesses applying for certification. Once the review is complete, the OEI Contracts Compliance Coordinator’s decision to approve or deny certification is issued through letter confirmation. The letter of confirmation granting certification is used to complete the Commission’s electronic “Fast Track” application.

The following Chart summarizes the Commission’s eligibility criteria for certification:

	Ownership and Control	Business Location/Size Standard	FastTrack Application Eligibility
MBE	At least 51% Owned and Controlled by Minority Individual(s)	Physical presence in Ohio	<ul style="list-style-type: none"> • Ohio Department of Administrative Service (DAS) as MBE • City of Cleveland (Cleveland) as MBE • Northeast Ohio Regional Sewer District (NEORS) as MBE
DBE	At least 51% Owned and Controlled by Socially Disadvantaged Individuals	Physical presence in Ohio and revenues below the federal SBA Size Standards or headquartered in Qualified	<ul style="list-style-type: none"> • Federal/UCP-DBE • DAS-EDGE • Cleveland-FBE and CCSB, CSB or RCSB

		Census Track (HubZone or DAS Enterprise Zone)	<ul style="list-style-type: none"> • NEORS-DBE
SBE	At least 51% Owned or Controlled by individuals with personal net worth less than \$1.32 million, Headquartered in a Qualified Census Track or certified as MBE or DBE	Physical presence in Ohio and revenues below 50% of the federal SBA Size Standards	<ul style="list-style-type: none"> • ODOT SBE

Applications for Certification

The Commission’s current certification registry displays active firms. Each certified firm’s application is approved based on the type of application submitted. Approved applications allow the certified firms to be certified with the Commission for two years. Fast Track applications are approved with the certification period running and expiring consecutively with the approval of the partnering entities’ certification listed in the previous section. Based on the current list of certified firms, the number of renewed certifications will vary based on the expiration dates.

The number of applications for each respective certification vary as vendors approach their re-certification dates. The Commission has registered over 200 certified companies as of January 2022.

Goals

The Commission adopted aspirational goals for its main contract types: (a) Professional Services, (b) Construction, and (c) General Goods and Services. The Disparity Study analyzed the different contracts the Commission executed during the study period from 2010 to 2014 and examined the Commission’s contracting market to identify the firms available to perform on the various business opportunities presented in those contracts. This availability analysis established that the race and gender benchmarks for the given contracts the Commission requires to perform its functions as follows:

Race And Gender	Availability Benchmark
Black American	6.2%
Asian American	0.8%
Hispanic American	0.4%
Native American	0.6%
Total minority-owned	7.9%
White female-owned	9.2%
Total minority/female-owned	17.2%

Those availability benchmarks for each respective race and gender identify targets for the Commission to meet averaged across all its various contracting opportunities. However, contract-specific goals are set based on each project’s unique scope, subcontracting opportunities, and availability of certified firms. These goals are stated in the invitation for bids or request for proposal documents. If a bidder or respondent has not fully met the project goals, they must demonstrate that they made a good faith effort to comply with the Program requirements. The bidder or respondent must make every necessary and reasonable effort to subcontract work to certified businesses before the bid opening or proposal deadline. The Program Coordinator conducts a review to determine if the bidder or respondent made the required good faith efforts when making a recommendation for selection to award a contract. All 2019-2021 contracts were drafted to include the Business Inclusion Program requirements unless a goal was waived due to lack of opportunity.

Outreach

During 2020-2021, the Program engaged in the following outreach activities to enhance relationships with small, minority or otherwise disadvantaged businesses:

Event	Partners	Date
ACCA National Training		August 31, 2021- Septemeber 5, 2021

The COVID-19 pandemic significantly limited outreach activities during 2020 and 2021. Outreach activities are vital to the success of the Program.

Utilization Results

OEI has monitored participation under Professional Services, Construction and Goods and Support Services contracts. The 2019-2021 contracts were valued at nearly \$445 million. Participation varies depending on the scope of the project and the sequence for the certified firms to perform its work. In addition, not all forms of contracts were captured in this report. OEI has determined that there needs to be improvements in tracking small contracts and credit card purchases by the individual department’s purchasing process. The period of data used for the following chart was January 1, 2019, to December 31, 2021. This was needed to capture the correct results regarding ethnicity and gender utilization for 2020-2021.

Ethnicity and Gender Summary

Ethnicity	Gender	Number of Subcontracts	Amount Awarded	Percent Awarded	Amount Paid To Date	Percent Paid To Date	Amount Paid During Period	Percent Paid During Period
		18	\$4,987,696.00	5.06%	\$1,806,831.32	3.84%	\$1,609,605.38	4.63%
	Male	2	\$9,500.00	0.01%	\$0.00	0.00%	\$0.00	0.00%
Asian	Female	12	\$835,057.00	0.85%	\$553,469.77	1.18%	\$301,074.62	0.87%
Asian	Male	38	\$2,800,175.00	2.84%	\$948,286.49	2.01%	\$713,511.17	2.05%
Black American		1	\$60,500.00	0.06%	\$70,732.99	0.15%	\$0.00	0.00%
Black American	Female	26	\$8,706,584.00	8.83%	\$5,067,883.54	10.77%	\$4,390,029.78	12.62%
Black American	Male	64	\$28,880,015.00	29.29%	\$16,182,921.26	34.38%	\$11,385,590.98	32.73%
Caucasian	Female	181	\$39,582,578.00	40.15%	\$15,122,504.76	32.13%	\$10,446,294.56	30.03%
Caucasian	Male	43	\$6,781,075.00	6.88%	\$5,060,072.91	10.75%	\$4,450,371.73	12.79%
Hispanic/Latino	Male	17	\$1,311,516.00	1.33%	\$637,283.51	1.35%	\$235,555.97	0.68%
Native American	Female	15	\$3,307,676.00	3.35%	\$1,343,239.89	2.85%	\$1,114,343.93	3.20%
Native American	Male	7	\$728,700.00	0.74%	\$92,639.71	0.20%	\$6,950.00	0.02%
Other Minority	Male	16	\$604,481.00	0.61%	\$181,688.84	0.39%	\$133,231.64	0.38%
TOTAL		440	\$98,595,553.00	100.00%	\$47,067,554.99	100.00%	\$34,786,559.76	100.00%

2022 PROGRAM OBJECTIVES

The Program is in its sixth year of implementation and several areas of improvement are evident for the Program to achieve better results. Collecting the universe of all Commission contracts is essential to the success of the Program. Small contracts involving purchase orders or credit card payments are not currently integrated into the Program. Goods and Services are most often procured through small purchase orders and purchase orders do not include Program requirements. In addition, the Commission has a new credit card system that has business intelligence tools to analyze the vendors and report on any known female or minority ownership. The Office of Equity and Inclusion recommends training on the credit card system be required to apply those new tools to the Program. The OEI has made changes to policy to capture data from concession agreements and janitorial services agreements, but seeks to integrate small purchase order procurements and credit card reporting tools into 2022's Program.

Additional training and repeated emphasis on the Program's application to the operations of each department is necessary and can be achieved through additional communication and training. Building the Program requirements and objectives into the routine requires continual maintenance

by both the OEI and the requisitioning department. As new employees are onboarded, the OEI should intermittently conduct procurement training so that the new employee's procurement activities can incorporate the Program requirements. Additional training and awareness of the Program requirements is necessary to avoid circumstances where the Program requirements are not met.

The 2020-2021 objective for integrating the Program requirements into the initiation of contracts has begun with the Contracts Department's development of new contracting procedures. A new system of checks and balances between the departments aims to achieve a higher quality of reporting to achieve greater compliance to better monitor participation.

According to Resolution 43-2016, to promote cultural change and accountability, contracting procedures need to foster the OEI Program objectives. OEI is a resource to assist in promoting the Commission's objectives for diversifying its contract awards. Promoting the external and internal utilization of the office is essential to the success of the OEI Program.

The Commission last completed a Disparity Study in 2016 that examined purchasing practices from 2010-2014. Those contracting decisions studied under 2016 are over five years old. Best practices for business inclusion programs suggest conducting a disparity study every five years to independently verify the participation obtained during the relevant period and reexamine the marketplace to identify the benchmarks on the availability of minority and female owned business. The OEI explored options for partnering with other state government entities. The Commission, in partnership with ODOT, is in the process of completing an Availability Study to have its contracting market assessed to determine available companies willing and able perform. We know the Commission's OEI office has an objective to make a concerted effort to collect and track all its contracts, therefore an Availability Study is most suited to support its program. Partnering with ODOT to procure an Availability Study will assist the Commission with setting overall aspirational SBE goals backed by data of available companies within our contracting market. The same method is used by ODOT and other like entities to set its overall DBE goals.

The COVID-19 pandemic created challenges in nearly every aspect of contracting at the Commission, making it difficult to implement Program improvements during 2020 and 2021. As a result, many planned improvements have remained the same for 2022. Additionally, the Commission is currently seeking to fill the position of Business Inclusion & Diversity Manager which has been vacant for several months.

In 2021, the Commission was planning improvements to the Program, including:

- Promoting an employee to OEI Contracts Compliance Officer to provide a full-time employee to support the work of the OEI. This was accomplished in February 2022.
- Developing a small business opportunity program to provide contracting opportunities to certified firms by advertising certain contracts as only available for bid or proposal by certified firms. This type of program is permitted under the Program because it is a race and gender-neutral program.
- Coordination with ODOT and utilizing a contract awarded by ODOT under a competitive Request for Proposals process for consultant services to research and

- prepare an Availability Study for the Commission's Program. This work commenced in January 2022 and is pending.
- Review and update the Standards and Practice Manual for the Small, Minority and Disadvantaged Business Enterprise Inclusion Program based on planned Program changes and other best practices.
 - Seek Commission reauthorization of the Program as required by the Standards and Practice Manual.
 - Research, prepare and review a Living Wage Policy to be presented to the Commission for discussion and possible adoption, specifically for service contracts, to ensure that contractors pay employees competitive wages comparable to wages paid for similar work in the same region.

Additionally, the OEI is planning more outreach events for 2022, including attendance at the 2022 Civil Rights Symposium in April, the B2Gnow Conference in May, and the American Contracts Compliance Association National Training Institute in August.

The Program is set to terminate as of June 20, 2022, unless reauthorized by the Commission. The Standards and Practice Manual provides that the Commission shall reauthorize the Program if "...there exists a strong basis of evidence of discrimination such that the Program should be continued and ensure that the Program's goals and operations remain narrowly tailored based upon the evidence."

Based on the foregoing, Commission staff will be asking the Commission to extend the existing Program for an interim period of one-year to provide additional time to complete the Availability Study in order to have the data necessary to establish an updated aspirational goal based on current data which continues to further to Program's objectives and to present the Commission with a recommendation for the formal reauthorization of the Program subject to necessary changes based on the Availability Study and other best practices.