

## An overview of Ohio's EDGE program following an investigative report by the inspector general



Peter D. Welin, John Gambill, Ryan Neumeier | Monday, February 18, 2019

Since its inception in 2003, Ohio's Encouraging Diversity, Growth and Equity program, also known as EDGE, has certified more than 4,700 businesses and increased state expenditures with EDGE-certified businesses from more than \$75 million in Fiscal Year 2004 to more than \$299 million in Fiscal Year 2017. The EDGE program establishes an annual goal for state agencies, boards and commissions as well as guidelines for state universities in awarding contracts to certified EDGE businesses. The program is designed to assist socially and economically disadvantaged businesses in obtaining state government contracts in the following areas: construction; architecture and engineering; professional services; goods and services; and information technology services.

In order to qualify for the EDGE program the business must be an "economically disadvantaged business," meaning that the business must be at least 51 percent owned and controlled by an economically disadvantaged person or persons and the size of the business must not exceed the definition of a "small business" as defined by the United States Small Business Administration (SBA), which varies depending on the industry that the business serves. Additionally, to qualify as an "economically disadvantaged person," the applicant's personal net worth at the time of initial certification must be less than \$250,000 and must not exceed \$750,000 at any point during the business' participation in the EDGE program.

### **EDGE goals on public construction projects**

Certain public owners, including the Ohio Department of Transportation and the Ohio Facilities Construction Commission often have goals for their projects that require a certain percentage of the work performed to be performed by an EDGE-certified contractor. For most public construction contracts, the required EDGE participation is at least 5 percent of the total contract value. Therefore, in order to provide a responsive bid, contractors bidding on those jobs must show that they intend to meet the EDGE goals for the project either by being EDGE-certified themselves or by hiring EDGE-certified subcontractors on the projects.

### **Investigation by Ohio Inspector General**

The inspector general received a complaint on Feb. 17, 2018 concerning the administration of the EDGE program. Specifically, the complaint questioned the certification of a single engineering firm. However, the inspector general conducted a thorough investigation of the administration of the EDGE program as a whole and discovered hundreds of businesses that were EDGE-certified despite no longer satisfying the criteria for certification. The investigation centered on the duration that certain companies have participated in the program.

The maximum amount of time a business or business owner may participate in the EDGE program as a certified business is 10 years. However, of the 4,721 businesses

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that have been certified by the EDGE program since its inception, the inspector general conducted a review of the qualifications of a sample of 811 businesses. **The inspector general's findings** were staggering.

- 539 of the 811 (66 percent) were beyond the 10-year eligibility restriction at some point prior to their listed expiration date; the remaining 272 exited the program prior to reaching the 10-year eligibility restriction;
- 357 of the 539 (66 percent) are currently beyond the 10-year eligibility restriction; the remaining 182 have since exited the program but again were at one point beyond the 10-year eligibility restriction; and
- 377 of the 539 (70 percent) were beyond the 10-year eligibility restriction at the time their businesses were last recertified.

It does not appear from the investigative report that the inspector general analyzed the 811 EDGE-certified businesses for compliance with the size restrictions for the EDGE program, but rather the investigation was focused solely on the time restrictions for inclusion in the program..

The inspector general has requested that the Ohio Department of Administrative Services respond within 60 days with a plan detailing how the it will address the inspector general's recommendations, which include:

- Completing an internal review of the EDGE program to determine EDGE-certified business eligibility.
- Initiating decertification or revocation proceedings for those EDGE program participants found to be ineligible based on either the 10-year eligibility restriction or other restrictions tied to the company's financial performance.
- Notifying all current EDGE program participants of both the 10-year eligibility restriction review as well as the small business size standard review to prepare local business leaders for any forthcoming corrective actions, including decertification and/or revocation proceedings.

As of Feb. 14, 2019, the Equal Opportunity Division of the ODAS has not released a detailed plan as to how it will address the findings of the investigative report of the inspector general. However, the EOD's acting deputy director has advised the Associated General Contractors of Ohio that companies expiring in 2018 have been granted until Oct. 1, 2019 to "ensure their affairs were in order" and it plans to post a list of companies that have graduated from the EDGE program in the near future. The justification for the extension to Oct. 1, 2019 from the EOD is unclear, but it does appear EDGE-certified businesses that should otherwise not qualify for continued participation in the program have been granted a reprieve.



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