



# Florida Department of **TRANSPORTATION**

Office of Inspector General  
**Kristofer B. Sullivan, Inspector General**

Audit Report No. 19P-1007  
Small Business Self-Certification Program Audit

DocuSigned by:  
*Kristofer B. Sullivan*  
66AAC6E338F64F4...  
December 11, 2020

## What We Did

---

The Office of Inspector General conducted an audit of the Florida Department of Transportation's Equal Opportunity Office (EOO) Business Development Initiative (BDI) for the Small Business Self-Certification Program. The purpose of this engagement was to determine if BDI-approved small businesses (including affiliates) and sub-contractors are correctly reporting revenue to qualify for the BDI program for the period of July 1, 2018, through June 30, 2019. Our review included the evaluation of program monitoring efforts and a review of the Small Business Self-Certification Program process.

## What We Found

---

**We determined** the small business self-certification process is not adequately monitored to ensure gross receipts data is within the established thresholds, per Section 337.027, Florida Statutes (2019). We observed the EOO does not have adequate procedures for consistent management of the small business self-certification process, and effective management of all the Department's small business self-certification process information (data), including a quality assurance process to verify the accuracy of the data.

## What We Recommend

---

**We recommend** the Equal Opportunity Office Manager:

- adopt additional controls to ensure gross receipts are fully monitored;
- work with the Procurement Office Manager to design effective and efficient reporting capabilities; and
- conduct BDI and Disadvantaged Business Enterprise reviews of contracts we found with eligibility concerns.

An opportunity for improvement exists to improve program procedures and accuracy of the small business data.

**Office of Inspector General  
Florida Department of Transportation**

---

**TABLE OF CONTENTS**

---

<b>BACKGROUND AND INTRODUCTION</b>	<b>3</b>
<b>RESULTS OF REVIEW</b>	<b>5</b>
<b>Finding – Monitoring</b>	<b>5</b>
<b>Observation – Program Oversight</b>	<b>7</b>
<b>APPENDIX A – Purpose, Scope, and Methodology</b>	<b>10</b>
<b>APPENDIX B – Management Response</b>	<b>11</b>
<b>DISTRIBUTION</b>	<b>13</b>
<b>PROJECT TEAM</b>	<b>14</b>
<b>STATEMENT OF ACCORDANCE</b>	<b>14</b>

**Office of Inspector General  
Florida Department of Transportation**

---

**BACKGROUND AND INTRODUCTION**

---

In 2012, the Business Development Initiative (BDI) was designed to support the Florida Department of Transportation's (Department) efforts to increase competition, lower prices, and increase support to meet its contracting needs over the next 10 years in response to Title 49, Part 26, Code of Federal Regulations, subsection 26-39.

The BDI for the Small Business Self-Certification Program is managed by the Equal Opportunity Office (EOO). The Department's Central Office (CO) Procurement Office is responsible for acquiring professional services (engineering, architecture, landscape architecture, surveying and mapping, planning, and right of way acquisition), contractual services, and commodities related to the state highway systems. The Contract Administration Office provides services for qualifying contractors to perform road and bridge construction projects to support the Department's mission.

BDI is being performed under the Department's alternative contracting authority provided by Section 337.025, Florida Statutes (F.S.) (2019). The Department's long-term goal is for small businesses to become prime contractors. The Department defines a prime contractor as one that enters a contract with the Department, and a sub-contractor is defined as one that enters into a contract with the prime contractor. In order to familiarize small businesses in working with the Department, the Department provides specialized assistance to these businesses, which may involve using Department staff or a consultant. The assistance includes, but may not be limited to:

- execution and progress of the work;
- contract specifications, requirements, and conditions;
- documentation requirements;
- obtaining appropriate permit(s), license(s) and insurance(s);
- payroll checking procedures; and
- final project records.

A small business is defined in Section 337.027(2), F.S., as a "business with yearly average gross receipts of less than \$15 million for road and bridge contracts and less than \$6.5 million for professional and nonprofessional services contracts. A business' average gross receipts is determined by averaging its annual gross receipts over the last three years, including the receipts of any affiliate as defined in Section 337.165, F.S."

According to the EOO's "BDI Small Business Program Guidance for Reserving Contracts," vendors must comply with the statutory criteria by submitting a notarized affidavit with their application to the District Office and must not exceed the established thresholds of three-year average gross receipts. The CO EOO manages the small business records and reports monthly utilization percentages while the CO Procurement Office reports the dollar amounts to Department Executive Leadership and the Federal Highway Administration (FHWA). The BDI utilization and financial reports are based on

**Office of Inspector General  
Florida Department of Transportation**

---

each District's data. No other performance measures were noted. Since 2012, the EOO has performed one criteria compliance audit, which consists of an analysis of selected vendor's three-year average gross receipts, in May 2018.

The BDI program is centralized, but each District oversees reserving contracts for CO's EOO to approve for the BDI program. Additionally, the Procurement Office and the Contract Administration Office have two unique systems and processes for maintaining small business information and records.

**Office of Inspector General  
Florida Department of Transportation**

---

**RESULTS OF REVIEW**

---

We determined the small business self-certification process is not adequately monitored to ensure gross receipts data is within the established thresholds, per Section 337.027, F.S. We observed the EOO does not have adequate procedures for consistent management of the small business self-certification process, and effective management of all the Department's small business self-certification process information (data), including a quality assurance process to verify the accuracy of the data.

**Finding – Monitoring**

**We determined** the small business self-certification process is not adequately monitored to ensure gross receipts data is within the established thresholds.

Section 337.027, F.S., states:

- (1) The department may establish a program for highway projects which would assist small businesses. The purpose of this program is to increase competition, lower prices, and provide increased support to meet the department's future work program. The program may include, but is not limited to, setting aside contracts, providing preference points for the use of small businesses, providing special assistance in bidding and contract completion, waiving bond requirements, and implementing other strategies that would increase competition.
- (2) For purposes of this section, the term "small business" means a business with yearly average gross receipts of less than \$15 million for road and bridge contracts and less than \$6.5 million for professional and nonprofessional services contracts. A business' average gross receipts is determined by averaging its annual gross receipts over the last 3 years, including the receipts of any affiliate as defined in s. 337.165 FS., (2019).
- (3) The department may adopt rules to implement this section.

Along with meeting the small business definition above, the Small Business Self-Certification Program requires the contractor/consultant to submit a notarized small business affidavit certification.<sup>1</sup>

Since the EOO did not have a complete list of BDI contractors within our scope for this audit, we compiled a list of 695 current BDI contractors for professional services, construction, and maintenance from the Procurement Office, the Construction Office, and the Office of Maintenance from several Department of Transportation and Department of Financial Services databases including:

---

<sup>1</sup> Department Form #275-000-01, Small Business Affidavit Certification for Road and Bridge Construction Firms and All Other Non-Professional Services Firms

**Office of Inspector General  
Florida Department of Transportation**

---

- Professional Pre-qualification System (PPQ);
- Contractor Pre-qualification Search (CPQ);
- Financial Project Research (FPS);
- Consultant Invoice Transmittal System (CITS);
- Contracts Information and Monitoring (CIMS); and
- Department of Financial Services Florida Accountability Contract Tracking System (FACTS).

We then identified 187 current contracts that were let during the audit scope time period of July 1, 2018, to June 30, 2019. We verified 122 out of 187 (65 percent) prime contractors and 236 out of 345 (68 percent) sub-contractors had current affidavits at the time of contract execution as required per Standard Note 7 (program requirements on advertisements).

We judgmentally tested 20 of the current 187 contracts, comprised of one contract from each District, as well as the Central Office and Florida Turnpike Enterprise, for a total of nine (9) contracts. The additional eleven (11) contracts were selected based on potential red flag attributes, such as:

- the original contract amount was awarded over the \$1.5 million threshold, per guidelines; or
- the three-year gross average receipts of the contractor exceeded the limit, per Section 337.027, F.S.
- Based on testing of the 20 prime contractors, we identified:
  - 1 (5 percent) contract was awarded an original contract amount over the \$1.5 million threshold, per guidelines;
  - 2 (10 percent) contractors exceeded the three-year gross average receipt limit, per Section 337.027, F.S.;
  - 2 (10 percent) could not be verified because the financial information was not provided by the prime contractors to the EOO; and
  - 10 (50 percent) affidavits were not valid at the time of contract execution as required per Standard Note 7.
- Based on testing of 61 sub-contractors, we identified:
  - 2 (3 percent) sub-contractors exceeded the three-year gross average receipt limit, per Section 337.027, F.S.;
  - 24 (39 percent) could not be verified because the financial information was not provided by the sub-contractors to the EOO; and
  - 27 (44 percent) contracts did not have an affidavit submitted by the execution date per Standard Note No. 7 (four of these did not submit an affidavit and two of the four were confirmed as not being a small business).

**Office of Inspector General  
Florida Department of Transportation**

---

**We recommend** the EOO manager adopt additional controls to ensure gross receipts are fully monitored, e.g., a schedule for quarterly quality assurance review attestations or reports from the Districts to Central Office's EOO.

Additionally, the EOO Manager should consider working with the Procurement Office Manager to design reports in the new Procurement Development Application<sup>2</sup> (PDA) containing data that can effectively and efficiently identify BDI criteria compliance for quality assurance purposes. Implementing more tracking and monitoring controls for the program will allow the identification of trends and anomalies.

**We also recommend** the EOO manager ensure BDI and Disadvantaged Business Enterprise (DBE) reviews are conducted on contracts we found with eligibility concerns.

### **Observation – Program Oversight**

The EOO's management maintains oversight of the BDI program; however, the policies and procedures could be more comprehensive. Currently, in addition to EOO, the Procurement Office and the Contract Administration Office maintain their own small business self-certification process information.

During our review, we observed the EOO does not have:

- adequate procedures for consistent management of the small business self-certification process; and
- effective management of all the Department's small business self-certification process information (data), including a quality assurance process to verify the accuracy of the data.

### ***Consistency of Program Management***

EOO provided three separate BDI documents (BDI Small Business Program Guidance for Reserving Contracts, BDI Policy and Procedure, and Business Development Initiative Unlocking Prime Opportunities) which set the small business self-certification criteria. The BDI documents provide instructions for the procurement and advertisement processes, and the history and intent of the program. However, these documents do not adequately detail the self-certification process including the following:

- identification and reference to the offices and databases being used in the process; and
- additional internal controls such as requiring the financial records at the time of initial application.

---

<sup>2</sup> PDA is a custom-built application implemented in fiscal year 2019 for professional services contract advertisement, tracking, reporting; and design-build contract advertisement. PDA is used to develop and post professional services contract advertisements as mandated in Section 287.055(3), F.S., post and report on the district Consultant Acquisition Plans, and track other items related to professional services.

**Office of Inspector General  
Florida Department of Transportation**

---

Additionally, clarity and greater detail is needed for the self-certification process and criteria, specifically to minimize the risk of inconsistencies of the program implementation and guidelines, namely:

- the definition of original contract and the dollar amount threshold are unclear, specifically whether this includes contract amendments;
- the various acceptable methods of notarizations are not identified, such as the use of digital signatures in lieu of traditionally notarized affidavits; and
- the exceptional use of a tracking system to ensure all small business eligible contractors are compliant with the criteria.

As an opportunity for improvement, the EOO manager should ensure specific procedural documents are created to clarify the rules and regulations regarding the small business self-certification process, and note any exceptions such as:

- the use of digital signatures in lieu of traditionally notarized affidavits; and
- the use of a tracking system to ensure all small business eligible contractors are compliant with the criteria.

The manuals and guidelines should also include:

- identification of which offices and databases are being used in the process, including relevant hyperlinks and funding sources; and
- additional internal controls such as requiring the financial records at the time of initial application.

During our review, the EOO began rewriting the program's desk manual to ensure clear processes, and efficient and effective implementation.

### ***Management of PDA Data***

Implementation of the PDA occurred in September 2019; however, all reports were required to be re-written due to the new database structure. It is anticipated the PDA will:

- house Professional Services (small business vendors);
- house Construction, Maintenance, and Other Contractual Services firms (small business vendors);
- have the ability to track BDI status of each firm;
- retain the most recent record for BDI status of each firm; and
- allow programmers to develop and write reports for Professional Services firms and contracts.

The EOO could improve performance of their responsibilities, by including the following information in a PDA report:



**Office of Inspector General  
Florida Department of Transportation**

---

1. name of business (vendor) contracted with the Department;
2. District location;
3. original contract amount;
4. contract execution date;
5. affidavit execution date as well as all tier sub-contractors;
6. contact information;
7. sub-contractor names;
8. verification of the date, signature, and notarization of affidavits (attachments) at the time of execution of all vendors; and
9. date of last three-year average gross receipts verification (with supporting documentation).

The EOO could also improve consistency of the implementation of the small business self-certification program by implementing a quality assurance process to verify the accuracy of the small business data.

**Office of Inspector General  
Florida Department of Transportation**

---

**APPENDIX A – Purpose, Scope, and Methodology**

---

The **purpose** of this engagement was to determine if the BDI approved small businesses (including affiliates) and sub-contractors are correctly reporting revenue to qualify for the BDI program.

The **scope** of this audit included all records and systems pertaining to the Small Business Self-Certification Program for the period of July 1, 2018, through June 30, 2019.

The **methodology** included:

- reviewing applicable federal and state laws, and Department policies and procedures;
- interviewing appropriate Department employees and conducting walk-throughs;
- reviewing BDI contract files; and
- reviewing contract affidavits and financial information supporting documentation.

**Office of Inspector General  
Florida Department of Transportation**

---

**APPENDIX B – Management Response**

---

Victoria Smith, Equal Opportunity Office Manager, provided the following response by email on December 10, 2020:

**Finding – Monitoring**

**We determined** the small business self-certification process is not adequately monitored to ensure gross receipts data is within the established thresholds.

**Recommendation:** We recommend the Department's Equal Opportunity Office (EOO) manager adopt additional controls to ensure gross receipts are fully monitored, e.g., a schedule for quarterly quality assurance review attestations or reports from the Districts to Central Office's EOO.

Additionally, the EOO Manager should consider working with the Procurement Office Manager to design reports in the new Procurement Development Application containing data that can effectively and efficiently identify Business Development Initiative criteria compliance for quality assurance purposes. Implementing more tracking and monitoring controls for the program will allow the identification of trends and anomalies.

We also recommend the EOO manager ensure Business Development Initiative and Disadvantaged Business Enterprise reviews are conducted on contracts we found with eligibility concerns.

**Response to Finding:** We concur with the finding and recommendation.

**Corrective Action:** The Equal Opportunity Office is responsible for the administration of the Business Development Initiative (BDI) program. As part of the BDI program responsibilities for the EOO, the EOO will implement ongoing monitoring to ensure the small business eligibility criteria is met, specifically to the established average gross receipts thresholds.

The EOO will conduct Quality Assurance Reviews (QARs) on a quarterly basis. The businesses selected will be a statistically significant random sampling of Construction/Maintenance and Professional Services certified small businesses. This methodology is/has been utilized in previous, and current, quality assurance reviews and will be evaluated and measured within one calendar year. This QAR will consist of requesting the selected certified small businesses submit the most recent three years taxes (including affiliates) and the Business Development Specialist will maintain, track and report the QAR results. Implementation is expected to commence during the third quarter state fiscal year 20/21.

In addition, the Procurement Office is apprised of the reports within the Procurement Development Application (PDA) necessary for tracking small business utilization. To

**Office of Inspector General  
Florida Department of Transportation**

---

ensure the necessary reports are developed, the EOO will continue to work with the Procurement Office to seek out the enhancement to the current system.

Lastly, the EOO will work collaboratively with BDI district contacts to increase and improve effective communication related to the BDI program requirements. This will be a standing meeting in an effort for statewide improvement to ensure district staff are firmly aware of what constitutes eligible small businesses for projects reserved under the BDI program.

**Estimated Completion Date:** The QAR process will be ongoing in perpetuity in order to assure the integrity and compliance of the BDI program, or until such time a directive is received to cease the reviews. Reviews are anticipated to commence on March 31, 2021.

The PDA system is currently undergoing enhancements on a priority basis. At this time, the EOO is not able to provide an estimated completion date when the PDA enhancement for this report will be available.

Statewide BDI meetings will be held in perpetuity, or until such time a directive is received to cease the meetings. Meetings are anticipated to commence on January 30, 2021.

**Office of Inspector General  
Florida Department of Transportation**

---

**DISTRIBUTION**

---

**Responsible Manager:**

Victoria Smith, Equal Opportunity Office, Manager

**Internal Distribution:**

Kevin J. Thibault, P.E., Secretary, Department of Transportation  
Torey L. Alston, Chief of Staff  
Courtney Drummond, P.E., Assistant Secretary for Engineering and Operations  
Will Watts, P.E., Chief Engineer  
Stacy Miller, P.E., Assistant Secretary for Finance and Administration  
Stephanie Iliff, Office of Administration, Manager  
Carla Perry, P.E., Procurement Office, Manager  
Brad Thoburn, Assistant Secretary for Strategic Development  
L.K. Nandam, P.E., District One Secretary  
Greg Evans, P.E., District Two Secretary  
Phillip Gainer, P.E., District Three Secretary  
Gerry O'Reilly, P.E., District Four Secretary  
Jared Perdue, P.E., District Five Interim Secretary  
Jim Wolfe, P.E., District Six Secretary  
David Gwynn, P.E., District Seven Secretary  
Nicola Liquori, CPA, Executive Director, Turnpike Enterprise

**External Distribution:**

Melinda Miguel, Chief Inspector General, Executive Office of the Governor  
Sherrill Norman, CPA, Auditor General, State of Florida  
Jamie Christian, Florida Division Administrator, Federal Highway Administration  
Ralph Yoder, Executive Director, Florida Transportation Commission

**Office of Inspector General  
Florida Department of Transportation**

---

**PROJECT TEAM**

---

Engagement was conducted by:  
Christine LeClere, Auditor

Under the supervision of:  
Linda Tan, Senior Audit Supervisor  
Amy Furney, Deputy Audit Director for Performance and Information Technology  
Joseph W. Gilboy, Director of Audit

Approved by:  
Kristofer B. Sullivan, Inspector General

**STATEMENT OF ACCORDANCE**

---

The Department's mission is to provide a safe transportation system that ensures the mobility of people and goods, enhances economic prosperity, and preserves the quality of our environment and communities.

The Office of Inspector General's mission is to provide independent and objective investigative and audit services that promote accountability, integrity, and efficiency within the Florida Department of Transportation and its partners.

This work product was prepared pursuant to section 20.055, Florida Statutes, in accordance with the Association of Inspectors General *Principles and Standards for Offices of Inspector General*, and conforms with The Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing*.

Please address inquiries regarding this report to the Department's Office of Inspector General at (850) 410-5800.