FOLLOW-UP REPORT

Division of Small Business Opportunity
Minority/Women and/or Disadvantaged Business Program

NOVEMBER 2021

TIMOTHY M. O’BRIEN, CPA
DENVER AUDITOR

OFFICE OF THE AUDITOR
AUDIT SERVICES DIVISION, CITY AND COUNTY OF DENVER
Audit Team
Vilma Balnyte, CPA, MBA, Audit Manager
Todd Green, CPA, CIA, CFE, Lead Auditor
Megan Kelly, MBA, Senior Auditor
Justine Joy, MBA, Senior Auditor

Audit Management
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Office of the Auditor
201 West Colfax Avenue, #705
Denver CO, 80202
(720) 913-5000  |  Fax (720) 913-5253

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AUDITOR’S LETTER

November 4, 2021

In keeping with generally accepted government auditing standards and Auditor’s Office policy, as authorized by city ordinance, the Audit Services Division has a responsibility to monitor and follow up on audit recommendations to ensure city agencies address audit findings through appropriate corrective action and to aid us in planning future audits.

In our follow-up effort for the “Minority/Women and/or Disadvantaged Business Program” audit report completed by BerryDunn and issued in June 2020, we determined the Division of Small Business Opportunity did not implement most of the recommendations it agreed to in the original audit report. Despite the division’s efforts, auditors determined the risks associated with the audit team’s initial findings have not been fully mitigated. As a result, the Audit Services Division may revisit these risk areas in future audits to ensure the city takes appropriate corrective action.

The Highlights page in this report provides background and summary information about the original audit and the completed follow-up effort. Following the Highlights page is a detailed implementation status update for each recommendation.

I would like to express our sincere appreciation to the personnel in the Division of Small Business Opportunity who assisted us throughout the audit and the follow-up process. For any questions, please feel free to contact me at 720-913-5000.

Denver Auditor’s Office

Timothy M. O’Brien, CPA
Auditor
Minority/ Women and/or Disadvantaged Business Program

NOVEMBER 2021

Objective
To audit the Minority/Women and/or Disadvantaged Business, or M/WBE/DBE, Program, including its policies, procedures, and goals; how it sets goals and certifies businesses; and how many projects can and are achieving those goals.

Background
BerryDunn conducted this audit on behalf of the Denver Auditor’s Office.

The Division of Small Business Opportunity, or DSBO, develops and enforces programs to enhance the city’s use of small businesses and businesses owned by women and people of color when contracting for construction projects, professional design, and airport concessions.

DSBO Policies and Procedures Were Not in Alignment with the M/WBE/DBE Ordinance, Not Documented, and/or Not Implemented in a Way That Maximized Control Effectiveness
Many facets of the Minority/Women and/or Disadvantaged Business Program lacked policies and procedures, and staff did not follow some existing procedures.

DSBO Did Not Utilize the System, B2G, to Its Full Capacity or in a Way That Maximized Program Effectiveness
The Division of Small Business Opportunity needed better controls, reporting, and automated data functions in B2G.

DSBO Was Not in Compliance with Program and Project Monitoring Requirements
Some projects were not meeting goals, some goals were not monitored, and employees were managing too many projects to effectively monitor them.

DSBO Was Inconsistent in Its Response Times and Renewal Practices for Certifying and Recertifying Businesses
Some contractor certifications lapsed, and the division granted extensions to some contractors to prevent their certifications from expiring.

The DSBO Goal-Setting Process Was Inconsistent and Did Not Maximize Program Effectiveness
Staff set some goals inconsistently and did not adequately document their goal-setting methodology.

City Purchasing Controls for Notifying DSBO Were Insufficient
The city lacked controls to ensure qualified projects had goals established.

WHY THIS MATTERS
By having effective controls and efficient operations, the Division of Small Business Opportunity can ensure that small businesses and businesses owned by women and people of color have better chances to contract with the City and County of Denver.

FULLY IMPLEMENTED 6
PARTIALLY IMPLEMENTED 4
NOT IMPLEMENTED 13
Nov. 4, 2021

**Action Since Audit Report**

**Minority/Women and/or Disadvantaged Business Program**

23 recommendations proposed in June 2020

![Implementation Status](image)

The Division of Small Business Opportunity fully implemented six recommendations made in the original audit report, but 17 others have yet to be fully implemented or acted upon.

Most of the 23 recommendations directed the division to develop policies or procedures to improve internal controls. In many instances, division staff developed these policies and procedures, but in some, they did not. We frequently found the documents lacked important provisions. Without sufficient policies and procedures, employees cannot effectively do their jobs, which may result in poor outcomes for the Minority/Women and/or Disadvantaged Business Program.

Additionally, the original report found staffing levels in the Division of Small Business Opportunity may be too low for the division to effectively monitor contracts. While we found in our follow-up that the division did evaluate staffing needs and tried to increase the number of staff, staffing levels are lower now than during the audit because of factors beyond the agency’s control.

Once the division is able to increase its staffing levels, we believe some issues from the original report will be resolved. However, to make the full improvements called for in the report, the division still needs to develop strong, detailed policies and procedures to enable employees to adequately perform their jobs.
Finding 1 | DSBO Policies and Procedures Are Not in Alignment with the M/WBE/DBE Ordinance, Not Documented, and/or Not Implemented in a Way That Maximizes Control Effectiveness

Recommendation 1.1

UPDATE PROCEDURES TO BE IN ALIGNMENT WITH THE ORDINANCE AND THE RULES AND REGULATIONS – BerryDunn recommends DSBO work to ensure that practices within the division are in alignment with the adopted ordinance and its accompanying rules and regulations. Furthermore, BerryDunn recommends DSBO work with elected officials to update the adopted ordinance as needed.

AGENCY ACTION

PARTIALLY IMPLEMENTED

Original target date for completion: Sept. 1, 2020

We reviewed the policies and procedures the Division of Small Business Opportunity developed in relation to the applicable city ordinance, rules, and regulations. We did not find any policies or procedures that explicitly differed from the ordinance or the rules and regulations, nor did we find that they differed from the spirit of the ordinance or the rules and regulations.

However, we noted one instance where practices within the division did not align with the policies, the ordinance, or the rules and regulations. We found the division is granting timeline extensions for certifications and recertifications, which violates the city ordinance and the division’s own rules, regulations, and policies.

We compared the provisions of the ordinance and rules and regulations against policies and procedures at the Division of Small Business Opportunity only as they pertained to the recommendations in the original audit. While we did not find evidence of division policies and procedures explicitly differing from the ordinance or the rules and regulations, some were not aligned across the division’s actual practices and its policies, procedures, ordinance, or rules and regulations.

Therefore, we conclude this recommendation was only partially implemented.
Recommendation 1.2

FURTHER DEVELOP WRITTEN POLICIES TO GOVERN THE USE OF COMPLIANCE PLANS – BerryDunn recommends DSBO develop and adopt written policies regarding the requirement of compliance plans for projects that do not meet the conditions, in order to uniformly apply a requirement for compliance plans.

AGENCY ACTION

Original target date for completion: July 1, 2020

Employees in the Division of Small Business Opportunity referred to two sections of their rules as evidence that they adopted written policies for compliance plans. However, city ordinances, other laws, rules, and regulations are not policy and procedure. Policy explains why actions are to be performed and procedures show how the action is supposed to be performed in a detailed manner. Together, policies and procedures are the controls that ensure an agency follows city ordinances, other laws, rules, and regulations.

The two sections of rules the division pointed to are identical regarding compliance plans. They say projects that meet certain prescribed criteria must have a compliance plan. However, these same provisions also say the requirement for a compliance plan is not limited to that particular criterion. As a result, Small Business Opportunity staff cannot uniformly apply requirements for projects that do not meet the specific conditions listed to address a project goal.

The division did not develop written policies as recommended, and the only noticeable change since the original audit was that the section of the rules and regulations the division mentioned was slightly reworded, while still having nearly identical requirements. As a result, we determined this recommendation was not implemented.

Recommendation 1.3

DEVELOP POLICIES AND PROCEDURES TO ENABLE PRACTICAL USAGE OF THE GRANTED SANCTIONING AUTHORITIES – BerryDunn recommends DSBO develop written policies and procedures to provide for uniform utilization of the granted sanctioning authority.

AGENCY ACTION

Original target date for completion: Sept. 1, 2020

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1 Compliance plans are referred to as “utilization plans” in the ordinance.
A section of city ordinance grants sanctioning authority to the Division of Small Business Opportunity for various compliance-related issues related to administering the Minority/Women and/or Disadvantaged Business Program. This authority allows the city to exercise rights including — but not limited to — withholding funds, imposing monetary penalties, and suspending or terminating a contract.

In response to Recommendation 1.3, the division created a standard operating procedure for its sanction process, but we found issues with the procedure, specifically in terms of the “uniform utilization” of the sanctioning authority.

- When a certified business is noncompliant with a corrective action plan, the procedure’s instructions call for the director and the compliance officer to determine a sanction. The procedure has no criteria or guidelines showing how this determination should be made. Therefore, it does not ensure sanction determinations are applied consistently and that similarly situated contractors are treated equally.

- The procedure’s section on violations leaves open to interpretation what constitutes a violation. This could lead to inconsistencies when staff identify an action not specifically mentioned as a violation. One employee may consider something a violation, while another employee may not.

  Furthermore, two violations listed in this section include the words “repeatedly” and “multiple,” which are not specific in how many times a violation would have to occur for the Division of Small Business Opportunity to use its sanctioning authority.

- The violation related to terminations, substitutions, and reductions of scope without approval or good cause is unclear as to whether all three violations are treated the same, and it is unclear how many offenses would result in a sanction for any given violation.

- Lastly, the section for violations related to pass-throughs, conduits, fraud, and retaliation is unclear as to whether the same sanction would apply to all these violations or whether different sanctions apply for different violations. The procedure is also unclear on whether any of these violations are subject to one of the two listed sanctions (i.e., termination and debarment) or whether all listed violations are subject to both sanctions.

Although the division implemented a procedure for sanctioning authority, it did not implement the procedure as specified in the recommendation. And while this procedure contains language around violations that could lead to the sanctioning authority being used, the unclear and non-specific language throughout the document does not allow for uniform treatment of similarly situated contractors. Therefore, we find this recommendation was not implemented.

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2 Denver Revised Municipal Code § 28-76.
Recommendation 1.4

DEVELOP POLICIES AND PROCEDURES TO ENFORCE LETTERS OF INTENT – BerryDunn recommends DSBO create consistent documented policies and procedures aligned with the ordinance to prevent substitution or termination of a certified business without adherence to the modified good faith effort provisions.

AGENCY ACTION

Original target date for completion: May 2, 2020

Employees in the Division of Small Business Opportunity told us the “modified good faith effort” mentioned in the original audit report is no longer in city ordinance. We confirmed this by reviewing the section of the ordinance referenced in the original audit finding. We found no mention of the modified good faith effort being required when a contractor substitutes or terminates a certified subcontractor.

Division employees explained that the former “modified good faith effort” process required contractors to inform the division only if they could not meet the Minority/Women and/or Disadvantaged Business Program participation goal on their project, and it did not require the division’s staff to take any action. However, these terminations and substitutions are subject to a new good-faith-effort process discussed in a different section of the same ordinance.

Under the new process described in the ordinance, if a contractor cannot meet the program participation goal it committed to, it has to demonstrate good faith efforts to meet the goal. Examples of these good faith efforts include:

• Mentoring women and people of color who own business enterprises.
• Soliciting the interest of other women and people of color who own business enterprises.
• Selecting portions of work that are more likely to increase the likelihood that the program participation goal will be met.
• Negotiating in good faith with other business enterprises owned by women or people of color for the work to be performed on the awarded contract and providing written documentation of that negotiation.

Good faith efforts ensure that opportunities for business enterprises owned by women or people of color are maximized, and they disincentivize contractors from reducing work for these businesses once they have been awarded a city contract with a project percentage goal for these businesses.

Small Business Opportunity employees said they ensure contractors follow these requirements through ongoing contract monitoring as required in a new standard operating procedure. Based on our follow-up work, we saw this would be accomplished by the compliance officer reviewing
subcontractor information in the B2G system, which is used to manage all of Small Business Opportunity’s certification and compliance work, and ensuring that certified firms are being used and not changed by a project’s prime contractor.

However, this procedure does not say when or how frequently the tasks for monitoring good faith efforts are to be performed. It, thus, leaves open the possibility that a certified business could be substituted or terminated without adherence to the good faith efforts. This could possibly not be detected until late in a project when it would be too late for the business to make the required good faith efforts.

The procedure also does not specify monitoring requirements and it simply picks up at the point that a contract compliance officer receives a good-faith-effort letter from the prime contractor. This does not prevent termination or substitution of a certified business until it may be too late to make the good faith efforts. If a contractor is not following the ordinance and does not submit a good faith effort, this procedure does not detect that.

The procedure says good faith efforts should be submitted when a prime contractor is not going to meet the committed participation goal and that the Division of Small Business Opportunity does not approve the good faith efforts until a project is substantially completed.

Small Business Opportunity employees said they must wait until a project is substantially completed to approve good faith efforts because city ordinance requires contractors to continue making good faith efforts throughout a contract’s term. Small Business Opportunity employees told our team that if a contractor reaches out to them and says it will not be able to meet its commitments, staff can provide suggestions to the contractor to help it perform the required good faith efforts. They said they also have contractors complete a form for substitution or termination of a certified contractor and that division employees will approve these forms. However, these forms are not documented or explained in any policy or procedure provided to our team.

Small Business Opportunity employees said substitution or termination would be detected by another procedure for the contract close-out process, specifically when payments are reconciled for each subcontractor in B2G. Based on our team’s review of the good-faith-effort procedure and information provided by the Division of Small Business Opportunity, any terminated or substituted contractor in B2G would not show up as having received the full amount it was contracted to receive, and the analyst would discover that when performing this procedure.

The contract close-out procedure also requires that the analyst ensure good faith efforts have been submitted and approved. If a certified subcontractor was substituted or terminated, there should be documentation of a good faith effort for this action.

While these are good controls for checking to ensure a certified
subcontractor was not substituted or terminated without the required good faith effort, they do not prevent a certified business from being substituted or terminated until after a project is substantially complete — when it is too late to make the required good faith efforts.

Therefore, we determined that while staff in the Division of Small Business Opportunity believe they made improvements in this area, the division did not create consistent, documented policies and procedures with enough specificity to guide the process to prevent substitution or termination of a certified business without adherence to the good-faith-effort provisions. Accordingly, we find this recommendation was not implemented.

Recommendation 1.5

DEVELOP POLICIES AND PROCEDURES TO ESTABLISH ALLOWABLE TIME FRAMES FOR THE CERTIFICATION PROCESS – BerryDunn recommends DSBO develop and implement policies and procedures that help ensure process uniformity by documenting the permissible time frames for the certification and recertification process.

AGENCY ACTION

NOT IMPLEMENTED

Original target date for completion: Aug. 1, 2020

The Division of Small Business Opportunity developed two standard operating procedures to provide guidance on certification and recertification for participation in the Minority/Women and/or Disadvantaged Business Program.

One details certain points from another procedure regarding timelines. That procedure specifies a five- to seven-day timeline for intake officers to complete their review of incoming applications and either accept them or return them. After the application review, there are two possible outcomes:

• The application is deemed incomplete, and it will be returned. The business must resubmit it, and if there is no response, the application is purged within 90 calendar days.³
• The application is received and accepted. This starts a 90-calendar-day period for approving the application.

Based on our review, we believe this should uniformly ensure the entire process is completed within 90 calendar days, assuming the process is followed. However, the procedures do not require monitoring or review to ensure applications are purged as required. When we reviewed certifications and recertifications that had been processed since the implementation date

³ Employees in the Division of Small Business Opportunity told us the references to “90 days” include non-business days. That is not explained in the procedure.
of the recommendation, we found many go over 90 days.

We noticed Small Business Opportunity was not following these procedures and was granting timeline extensions to some businesses seeking certification and recertification, which is prohibited by the rules and regulations — as we discussed in the agency action for Recommendation 1.1.

Small Business Opportunity established allowable time frames for the certification process. But, because the procedures do not ensure applications are purged as required, we find this recommendation was not implemented.

Recommendation 1.6

**DEVELOP AND IMPLEMENT PROCEDURES TO TRACK EXPIRATION OF CERTIFICATIONS** – BerryDunn recommends DSBO develop and implement procedures to track the expiration of DBE certifications throughout the term of a contract. Additionally, BerryDunn recommends that DSBO work to ensure that certification and contract compliance staff are trained in the functionality of the B2G system that performs this task.

**AGENCY ACTION**

**Original target date for completion: Sept. 1, 2020**

During our follow-up work, employees in the Division of Small Business Opportunity did not provide any policies or procedures on how to track the expiration of certifications, as recommended in the original audit report.

As a result, we find this recommendation was not implemented.
Finding 2 | DSBO Does Not Utilize the System, B2G, to Its Full Capacity or in a Way That Maximizes Program Effectiveness

Recommendation 2.1

INCREASE CONTROLS AROUND PAYMENT INPUT – BerryDunn recommends DSBO utilize enforcement mechanisms, such as holding pay, requiring payment support, or imposing a sanction of prime contractor and subcontractors if payment information is not accurately and consistently reported.

AGENCY ACTION

Original target date for completion: Sept. 1, 2020

The Division of Small Business Opportunity told us they have not had to use enforcement mechanisms since the implementation date of Sept. 1, 2020. They said that reaching out to prime contractors and reminding them of their reporting responsibilities has achieved the desired results.

The Division of Small Business Opportunity developed two standard operating procedures related to this recommendation. The first one relates to the noncompliance process and lacks many important and necessary details. For example:

- The procedure does not specify what corrective action to take for nonpayment or when a business does not respond to audits.
- One section of the procedure says: “The Compliance Officer will use in-system tools such as the messaging tools on the Subs Tab to contact primes and subs and advise of noncompliance.” However, the procedure never elaborates on what the “in-system” tools are. The messaging feature is also not described, and the procedure does not say what the analyst should do with that tool.
- For other items — such as modifying, terminating, or reducing the scope of work for a certified firm — the procedure instructs the analyst to go to the sanction process. But there are no instructions like this for other items, such as inaccurate payments.

The division also developed a standard operating procedure for the sanction process. We found this procedure to be vague and confusing in many aspects. For example, there are no set criteria for making a sanction determination for noncompliance. The policy is unclear and inconsistent. Some violations list potential sanctions, while others provide only examples of the violations instead.
Additionally, the document’s lack of clarity means it does not specify what the sanctions are for violations. For example, a violation for being “nonresponsive” includes wording that says: “Participation would not be counted-Corrective Action Plan.” But it is unclear whether these sanctions are applicable to this item. Arguably they are not, because participation not being counted is not an enforcement mechanism and is not listed in the sanction types. Meanwhile, a corrective action plan is listed in the section on types of sanctions — but that is also not an enforcement mechanism.

Also of note, a corrective action plan — according to the procedure — is what the division employs before it sanctions a business. If a business is not compliant with the corrective action plan, then the business is sanctioned. If a corrective action plan is what happens before a business can be sanctioned, it cannot be a type of sanction in and of itself.

The procedure also does not clearly say payments must be accurate and consistent, and it does not clearly lay out any kind of enforcement mechanism for payments not being reported accurately and consistently.

After reviewing the procedures the division provided to us, we determined there is no policy or procedure that adequately documents increased controls helping Small Business Opportunity staff to use enforcement mechanisms when payment information is not accurately and consistently reported. As a result, we find this recommendation was not implemented.

Recommendation 2.2

WORK TO ENSURE THAT TIER 2 AND 3 SUBCONTRACTORS ARE CAPTURED IN B2G — BerryDunn recommends that DSBO require subcontractors to have the same responsibility as prime contractors to report payments to subcontractors, to help ensure that M/WBE/DBE goal percentages are properly calculated. Any additional controls implemented should be required of both prime contractors and subcontractors.

AGENCY ACTION

Original target date for completion: Sept. 1, 2020

We found subcontractors are now required to have the same responsibility as prime contractors in reporting payments to their own subcontractors. The Division of Small Business Opportunity did not add new controls for reporting requirements. We determined this recommendation was fully implemented.
### Recommendation 2.3

**AUTOMATE THE WORKDAY TO B2G DATA-TRANSFER ACTIVITIES** – BerryDunn recommends that DSBO continue to research alternate and automated solutions to improve tracking Workday payment data in B2G.

**AGENCY ACTION**

**FULLY IMPLEMENTED**

**Original target date for completion: Sept. 1, 2020**

Employees in the Division of Small Business Opportunity researched an automated solution to import payment data from the city’s system of record, Workday, into B2G. The city’s Technology Services agency implemented this integration in June 2021. As a result, we consider this recommendation fully implemented.

### Recommendation 2.4

**INCREASE THE CONTROLS REGARDING PAYMENT VERIFICATION OF WORKDAY DATA** – BerryDunn recommends a regular, such as quarterly, comparison of data in Workday to data in B2G as a monitoring activity.

**AGENCY ACTION**

**FULLY IMPLEMENTED**

**Original target date for completion: Sept. 1, 2020**

At the time of the original audit, the information for contracts in Workday had to be manually moved to B2G with a spreadsheet. BerryDunn said in the original audit report: “An additional control to help prevent inconsistencies between Workday and B2G, given the manual nature of the data transfer practices, would be to have DSBO conduct a comparison of B2G to Workday on a regular basis.”

Separately, in Recommendation 2.3, BerryDunn recommended that the Division of Small Business Opportunity research and implement automated solutions to improve tracking Workday payment data in B2G. Since the division implemented that recommendation, the manual process is no longer present.

We followed up with the city’s Technology Services agency, which performed the data integration for Small Business Opportunity. Technology Services, Small Business Opportunity, and the Department of General Services’ Purchasing Division all validated the data from Workday to B2G during the integration project.

The risk of information not matching between the two systems still remains for other reasons, but it has been greatly reduced by implementing the automatic data transfer.
We also learned that Small Business Opportunity’s analysts compare payments in B2G to the total contracted amounts when a contract is closed out. This serves as an additional check to verify the data is correct.

Although the division did not implement the recommendation as prescribed in the report, the manual process is no longer present and, therefore, the risk has effectively been mitigated. As a result, we find this recommendation was fully implemented.

**Recommendation 2.5**

**INCREASE THE CONTROLS IN B2G FOR APPROVED PAYMENTS** – BerryDunn recommends working with B2G to add another layer of controls over changes to previously confirmed payment information.

**AGENCY ACTION**

**NOT IMPLEMENTED**

*Original target date for completion: Sept. 1, 2020*

Employees in the Division of Small Business Opportunity told us they spoke with B2G about adding another layer of controls to approved payments but that this was not feasible.

They said controls were present in a procedure they developed, but we found the procedure is not an effective control to prevent changes to previously confirmed payment information. This is because the control can easily be evaded and does not stop accidental changes to data. As a result, we determined this recommendation was not implemented.

**Recommendation 2.6**

**WORK TO ENSURE THAT GOOD FAITH EFFORTS ARE ENFORCED AND THAT DSBO’S PROJECT GOAL CALCULATION IS UNDERSTOOD AS THE OFFICIAL TABULATION** – BerryDunn recommends that DSBO develop policies and procedures to uniformly enforce good faith effort documentation. Additionally, BerryDunn recommends DSBO work with elected officials to change the ordinance to require approval prior to prime contractors removing or adding certified businesses after the contract has initiated. Lastly, BerryDunn recommends that DSBO work with city departments to help all parties understand that DSBO’s calculation of the project goal is the official record.

**AGENCY ACTION**

**PARTIALLY IMPLEMENTED**
Original target date for completion: Sept. 1, 2020

Employees in the Division of Small Business Opportunity developed a standard operating procedure regarding the good-faith-effort process that they said would address this recommendation. However, the procedure has a few problems.

It says several documents are required for good faith efforts. But it provides no guidelines for these documents nor is there a link to any guidelines. The required content of these documents, the recommended timelines for completion, and other relevant information — such as where the documents should be stored — are not included in the procedure. The procedure simply says the documents must be produced, without any other guidance.

Meanwhile, we requested but were unable to obtain evidence of Small Business Opportunity working with other city agencies to help all parties understand that the division’s calculation of a project goal is the official record.

But we did find that the Division of Small Business Opportunity worked with officials to change city ordinance, as BerryDunn recommended in the original audit. It was updated to require approval before a prime contractor removes or adds certified businesses after a contract has begun.

While the division implemented this one part of the recommendation, other parts were not implemented. As a result, we find this recommendation was only partially implemented.

Recommendation 2.7

WORK TO ENSURE THAT DSBO STAFF WHO USE B2G ARE PROVIDED TRAINING RESOURCES – BerryDunn recommends that DSBO staff who use B2G be provided system training, especially the reporting functionalities within B2G. DSBO should consider sending members overseeing the use of B2G to the in-person training, if feasible.

AGENCY ACTION

Fully Implemented

Original target date for completion: Sept. 1, 2020

The Division of Small Business Opportunity provided a receipt for virtual B2G training — evidencing that it provided its staff with recommended training. As a result, we find this recommendation was fully implemented.
Finding 3 | DSBO Is Not in Compliance with Program and Project Monitoring Requirements

Recommendation 3.1

**IMPROVE MONITORING OF GOAL PERFORMANCE AND INCREASE OUTREACH** – BerryDunn recommends DSBO evaluate the goal-monitoring process and improve its controls related to tracking goal performance and outreach to contractors that are active and appear to not be meeting their goals.

**AGENCY ACTION**

Original target date for completion: Sept. 1, 2020

The Division of Small Business Opportunity developed a standard operating procedure related to the noncompliance process. However, it lacks many important and necessary details.

- One of the controls in the procedure is that B2G automatically calculates a contractor’s goal completion percentage. However, the system does not automatically alert Small Business Opportunity staff when contractors are not meeting goals, and it requires the staff to notice that the goal will not be met.

  As of this follow-up report, each staff member in Small Business Opportunity’s downtown office was assigned an average of 1,064 contracts, while staff members at the division’s airport office averaged 412 contracts each. Noticing a single goal status is, therefore, difficult and the control is not reliable. The original audit report noted that Small Business Opportunity’s compliance staff are managing too many contracts to be effective.

- Other sections of the procedure show employees how to communicate with contractors that are not meeting their goals, but these details do not contain important information about how to perform the procedure — including time frames of when communication should occur and what happens when a contractor does not respond.

  We did obtain evidence showing that when contractors are sent a letter through B2G for not meeting their goal, this documentation is automatically saved in B2G. While this is an improvement to tracking outreach to contractors that are not meeting their goals, the procedures developed by the Division of Small Business Opportunity for tracking goal performance are not well designed.

As a result, we determined this recommendation was not implemented.
Recommendation 3.2

**DOCUMENTATION OF MONITORING ACTIVITY CONTROLS** – BerryDunn recommends that, after DSBO identifies the most effective use of letters of intent and good faith efforts, DSBO document the procedures and train staff.

**AGENCY ACTION**

Original target date for completion: Sept. 1, 2020

Employees in the Division of Small Business Opportunity told us during follow-up that the procedures for this recommendation were in two sections of city ordinance. However, as we noted in the agency action for Recommendation 1.2, ordinances, other laws, rules, and regulations are not the same as policies and procedures. Policies and procedures are the internal controls used to ensure an agency complies with ordinances, other laws, rules, and regulations.

Additionally, policies and procedures can be changed much more easily to address potential problems and changes, and they are meant to ensure employees have guidance to follow ordinances, rules, and regulations.

Small Business Opportunity did develop a standard operating procedure for the good-faith-effort process. The procedure includes directions for routing documentation within the division for approval, and it refers staff to the standard operating procedure for the sanction process when a good faith effort is not approved. But the procedure does not have most of the information staff would need to effectively perform the functions related to good faith efforts and it lacks guidance on using letters of intent.

As a result, we determined this recommendation was not implemented.

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Recommendation 3.3

**EVALUATE STAFFING NEEDS AND WORKLOAD OF MONITORING ACTIVITIES** – BerryDunn recommends DSBO evaluate and reduce the number of contracts assigned to each compliance staff member to allow effective monitoring.

**AGENCY ACTION**

Original target date for completion: Sept. 1, 2020

Employees in the Division of Small Business Opportunity provided us with copies of emails and requests for additional employees to show they had evaluated the number of contracts assigned to each staff member and were actively trying to reduce that number to allow effective monitoring of contracts.
During follow-up, we learned the division's downtown office had less employees than it did during the original audit. The division also had more available positions, and once those are filled, the division will be better staffed. However, staff will still be managing a significant number of contracts — far more than the 400 each mentioned in the original audit report.

If all requests for additional employees in the downtown office are fulfilled, Small Business Opportunity will be in a better position with nine employees managing an average of 355 contracts each, based on the number of current contracts at the time of our follow-up.

Meanwhile, at Denver International Airport, the Division of Small Business Opportunity had the same number of employees as it did during the original audit. If it gets two more positions approved, the airport office will be better staffed with seven employees managing an average of 295 contracts each.

While the division has made efforts to reduce the number of contracts assigned to each compliance staff member, it has so far been unable to do so because of logistical reasons — including employee turnover and a hiring freeze due to the pandemic. As a result, we find this recommendation was only partially implemented.

**Recommendation 3.4**

**IMPROVE MONITORING ACTIVITY CONTROLS** — BerryDunn recommends DSBO work to ensure letters of intent are executed as written and submitted. DSBO should monitor contracts to assess whether the proposed certified firms are utilized. When DSBO identifies a subcontractor that is receiving payments and was not previously included in the contract, BerryDunn recommends DSBO work with the contractor to obtain a documented good faith effort, so the certified firm’s work can be counted toward the goal percentage.

**AGENCY ACTION**

**Original target date for completion: May 2, 2020**

Employees in the Division of Small Business Opportunity told us during follow-up that the procedures for this recommendation were in two sections of city ordinance. However, as we noted in the agency action for Recommendation 1.2, city ordinances, other laws, rules, and regulations are not policy and procedure. Policy explains why actions are to be performed and procedures show how the action is supposed to be performed in a detailed manner. Together, policies and procedures are the controls that ensure an agency follows city ordinances, other laws, rules, and regulations.
Additionally, policies and procedures can be changed much more easily to address potential problems and changes, and they are meant to ensure employees have guidance to follow ordinances, rules, and regulations.

Because the division did not provide any other documentation showing recommended controls are in place, we concluded controls are not present. Without controls, it is not possible for Small Business Opportunity to ensure letters of intent are executed as written and submitted. Therefore, we conclude this recommendation was not implemented.

**Recommendation 3.5**

**IMPROVE DOCUMENTATION OF MONITORING ACTIVITIES** – BerryDunn recommends DSBO document monitoring activities performed and develop a consistent document management mechanism that allows verification and confirmation of completed tasks.

**AGENCY ACTION**

**PARTIALLY IMPLEMENTED**

Original target date for completion: Sept. 1, 2020

Employees in the Division of Small Business Opportunity developed a standard operating procedure that provides guidance on contract communication. The procedure instructs staff on how to enter information into B2G, create and send emails within B2G, respond to emails, upload communications from outside B2G to a contract, and enter comments about a contract to ensure phone calls and other forms of communication are recorded. The procedure shows examples of how to categorize outside correspondence, such as letters of intent, good faith efforts, approval or rejection letters, and deadline extensions.

However, in our review of documentation on a selection of contracts, we did not see any evidence of these monitoring activities being done. Because we cannot verify the new procedure was implemented, we determined this recommendation was only partially implemented.
# Finding 4 | DSBO Is Inconsistent in Its Response Times and Renewal Practices for Certifying and Recertifying Businesses

<table>
<thead>
<tr>
<th>Recommendation 4.1</th>
<th><strong>ESTABLISH AND ENFORCE A DEADLINE FOR PROCESSING CERTIFICATION APPLICATIONS</strong> – BerryDunn recommends that DSBO continue to use an automated and proactive approach when reaching out to businesses that need to recertify. BerryDunn also recommends training of staff to enforce a faster and more-uniform decision timeline for responding to applications.</th>
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<tr>
<td></td>
<td><strong>AGENCY ACTION</strong></td>
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<tr>
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<td><strong>FULLY IMPLEMENTED</strong></td>
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<td>Original target date for completion: Aug. 1, 2020</td>
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<td>Employees in the Division of Small Business Opportunity provided us with evidence showing that automated notifications for certification, recertification, and expired certifications are still used — as well as documentation showing that they trained staff on certification and recertification.</td>
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<td>As a result, we find this recommendation was fully implemented.</td>
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<tr>
<th>Recommendation 4.2</th>
<th><strong>REMOVE THE OPTION TO PROVIDE CERTIFICATION EXTENSIONS</strong> – BerryDunn recommends that DSBO follow the established renewal process for all subcontractors and not grant extensions upon request.</th>
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<td><strong>AGENCY ACTION</strong></td>
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<td><strong>NOT IMPLEMENTED</strong></td>
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<td>Original target date for completion: Aug. 1, 2020</td>
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<td>As evidence of implementing this recommendation, employees in the Division of Small Business Opportunity pointed us to their rules and regulations — which say extensions will no longer be granted, that the division must verify that all certified firms meet eligibility requirements, and that it is a business’s responsibility to maintain its certification.</td>
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<td>However, the division did not provide any documentation demonstrating controls that ensure extensions are not granted, and our follow-up work found the division is still granting extensions for certifications. As a result, we find this recommendation was not implemented.</td>
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</table>
**Finding 5 | The DSBO Goal-Setting Process Is Inconsistent and Does Not Maximize Program Effectiveness**

**Recommendation 5.1**

**IMPROVE GOAL ASSIGNMENT CONTROLS** – BerryDunn recommends DSBO utilize a consistent goal-setting process and document goal-determination procedures to promote consistency among staff.

**AGENCY ACTION**

**FULLY IMPLEMENTED**

*Original target date for completion: May 2, 2020*

The Division of Small Business Opportunity developed a standard operating procedure related to the goal-setting process. In our review of this document, we found it will help ensure consistency because it instructs analysts to compare projects to three other historical projects.

Additionally, by having procedures documented, the division has met the second part of the recommendation. Therefore, we find this recommendation was fully implemented.

**Recommendation 5.2**

**IMPROVE CONSISTENCY OF GOAL ASSIGNMENT METHODOLOGIES** – BerryDunn recommends DSBO utilize the goal established by the goal analyst or stay within a range established by DSBO in order to prevent inconsistent goal setting.

**AGENCY ACTION**

**NOT IMPLEMENTED**

*Original target date for completion: Aug. 1, 2020*

The Division of Small Business Opportunity developed a standard operating procedure related to the goal-setting process, which would likely cause the division to use the goal established by the staff analyst.

However, there is no wording that requires the analyst’s figure to be used or that establishes an acceptable range. We asked Small Business Opportunity employees whether there were other controls that would accomplish this, but they did not provide evidence of any other controls. Additionally, Small Business Opportunity employees specifically said they do not establish ranges for goals.
Because the division did not bring consistency to its goal-assignment methodologies, we find this recommendation was not implemented.
Finding 6 | City Purchasing Controls for Notifying DSBO Are Insufficient

Recommendation 6.1

**COOPERATE WITH OTHER CITY AGENCIES TO IMPROVE CITY PURCHASING CONTROLS** – BerryDunn recommends DSBO work with city officials and procurement to implement a method or control that would help prevent qualified projects from being procured without a goal established.

**AGENCY ACTION**

**Original target date for completion: Sept. 1, 2020**

In response to this recommendation, the Division of Small Business Opportunity now requires that when a contract goes through the city’s contract system, the employee entering the contract has to specify whether the project has a small business goal.

However, a Small Business Opportunity employee does not perform this control; whoever procures the contract does. This contract procurement employee will not have the same knowledge about small business requirements as a Small Business Opportunity employee.

We asked what controls existed to prevent a contract procurement employee from accidentally or purposely selecting “no” in instances when a project should have a goal. Small Business Opportunity employees said if that happened, it would require an exclusion checklist to be attached.

We reviewed the checklist and found it was missing some exclusions from city ordinance and is not required to be completed. Small Business Opportunity employees told us the checklist was made specifically for contract administrators as a guide for projects that are excluded from Small Business Opportunity programs, and they confirmed it is not required.

While the division did implement a control, the control is weak. As a result, we find this recommendation was not implemented.
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