



OPERATIONAL SERVICES DIVISION
SUPPLIER DIVERSITY OFFICE

SERVING PUBLIC BUYERS AND VENDORS OF THE COMMONWEALTH OF MASSACHUSETTS



Operational Services Division

Supplier Diversity Office

**Fiscal Year 2018 Report to the Legislature on the
Expansion of Opportunities for Individuals with
Disabilities in State Procurement and Contracting**



OPERATIONAL SERVICES DIVISION

Gary J. Lambert
Assistant Secretary for Operational Services

Charles D. Baker
Governor
Karyn E. Polito
Lieutenant Governor
Michael J. Heffernan
Secretary

October 31, 2018

William F. Welch, Senate Clerk
Office of the Clerk of the Senate
24 Beacon Street
Room 335 — State House
Boston, MA 02133

Steven T. James, House Clerk
Office of the Clerk of the House
24 Beacon Street
Room 145 — State House
Boston, MA 02133

Re: Annual Report of the Supplier Diversity Office to the Clerks of the Senate and House of Representatives pursuant to Section 4 of Chapter 219 of the Acts of 2016, An Act Relative To Job Creation And Workforce Development, and Section 88 of Chapter 154 of the Acts of 2018.

Dear Senate Clerk Welch and House Clerk James:

The Supplier Diversity Office (SDO) of the Operational Services Division (OSD), in collaboration with the Massachusetts Office on Disability (MOD), is pleased to submit this Fiscal Year 2018 report of the Supplier Diversity Office's efforts at expanding opportunities for individuals with disabilities in all areas of state procurement and contracting pursuant to Section 4 of Chapter 219 of the Acts of 2016 (the "Act") and Section 88 of Chapter 154 of the Acts of 2018.

As you may know, the Act requires the SDO to set goals every two years and report on those goals annually. This report, therefore, is an update on the SDO's progress towards meeting the goals set in the FY 2017 report.

If you have any questions or need any additional information, please feel free to contact me at William.McAvoy@state.ma.us or at (617) 720-3327.

Sincerely,

William M. McAvoy
Deputy Assistant Secretary



Supplier Diversity Office

Fiscal Year 2018 Report to the Legislature on the Expansion of Opportunities for Individuals with Disabilities in State Procurement and Contracting

Background:

The Supplier Diversity Office (SDO), within the Operational Services Division (OSD), is created pursuant to M.G.L. c. 7, §58A. M.G.L. c. 7, §57 describes the “various public and private programs [that] have been initiated to assist minority, women and veterans business enterprises, where applicable, to achieve economic viability,....” Under this statute, the SDO is mandated to “promote and facilitate the fullest possible participation by all citizens in the affairs of the [C]ommonwealth.” Consistent with this statutory requirement, Governor Baker issued Executive Order 565 on November 3, 2015, authorizing the SDO to include all businesses majority-owned and controlled by individuals with disabilities, among other groups, within the Supplier Diversity Program (SDP).

Section 4 of Chapter 219 of the Acts of 2016 (the “Act”) (see Appendix 1) directed the SDO, in consultation with the Massachusetts Office on Disability (MOD), to provide opportunities for individuals with disabilities in all areas of state procurement and contracting. Removing barriers and lifting perceptions that restrict the Commonwealth’s ability to leverage the capacity of the disability community are shared goals of the Legislature and the Baker-Polito Administration. Unlike past and current supplier diversity programs, which are focused on the inclusion of **businesses** owned by diverse individuals, the Act also introduces the possibility of the SDO mandating that contractors and subcontractors now identify, recruit and hire qualified **individuals** with disabilities.

The SDO and the MOD are committed to fulfilling the mandate of this Act to establish participation goals for state procurement and contracting that will strengthen the Commonwealth’s workforce and marketplace by ensuring meaningful inclusion of individuals with disabilities. As part of this commitment, in the FY 2017 report, SDO and MOD established the following five goals consistent with the intent of the Act:

- Goal #1: [Ensure all contractors are required to adhere to] Contract Anti-Discrimination Terms,
- Goal #2: Expand Inclusion of Disability-Owned Business Enterprises (DOBE),
- Goal #3: Develop a Central Repository of Resources for Individuals with Disabilities,
- Goal #4: [Conduct a] Due Diligence Review of Current and Best Practices, and
- Goal #5: Establish Employment Percentage Goals in the SDO Individuals with Disabilities Pilot Program.¹

The intent of this report is to provide an update on the progress made in implementing these goals.

¹ The implementation of Goal #5 envisioned the creation of the SDO Individuals with Disabilities Pilot Program. Subsequent to the passage of the Act and the establishment of the goals, the Legislature passed Outside Section 88 (SDO Disability Pilot) of Chapter 154 of the Acts of 2018, the FY 2019 Budget (see Appendix 1), which added more details about the pilot program and established a new, expedited timeline for program delivery.

FY 2018 Update on FY 2017 Goals for Participation of Individuals with Disabilities in State Procurement and Contracting:

The SDO, in consultation with MOD, is providing updates to the following goals which were identified in our FY 2017 report and which will expand the inclusion of and opportunities for individuals with disabilities in state procurement and contracting:

<u>FY 2017 Goal</u>	<u>Progress</u>
<p><u>Goal #1: Contract Anti-Discrimination Terms:</u> Ensure that contractors are aware of their responsibility for adhering to existing laws that prohibit discrimination against individuals with disabilities.</p> <p>This objective ensures that the state’s business partners are on notice that discrimination against individuals with disabilities is illegal and contrary to the Commonwealth’s priorities and commitment. It is also consistent with the overall statutory goal of the Act to employ more individuals with disabilities.</p>	<p>Goal #1 was completed. As part of its implementation, the SDO and MOD:</p> <ul style="list-style-type: none"> ▪ Confirmed that anti-discrimination provisions are included in <u>all</u> contract forms (including goods, services and construction contracts); and ▪ Ensured that the Commonwealth requires contractors to agree, when they sign contracts, that they shall not discriminate on the basis of an individual’s disability (in addition to other non-discrimination classifications).
<p><u>Goal #2: Expand Inclusion of Disability-Owned Business Enterprises (DOBE):</u> As directed in Executive Order 565:</p> <ul style="list-style-type: none"> ▪ Increase outreach to businesses owned by individuals with disabilities to encourage their: <ul style="list-style-type: none"> • Applying for free DOBE certification by SDO’s DOBE certification partner, Disability:IN²; • Attending relevant accessible trainings about business opportunities with the Commonwealth; and • Registering in the Commonwealth’s online procurement platform, COMMBUYS, and for the Small Business Purchasing Program (SBPP) (if applicable). <p>The SDO’s outreach includes partnering with Disability:IN, the Massachusetts Business</p>	<p>Executive Order 565 expanded the Supplier Diversity Program to include Disability-Owned Business Enterprises (DOBEs), providing opportunities in the procurement process for businesses owned by individuals with disabilities. Through SDO’s certification program with Disability:IN, the SDO increased the number of DOBEs certified to do business with the Commonwealth from 136 in FY 2017 to 163 in FY 2018.³</p> <p>On May 11, 2018, the Operational Services Division announced the inclusion of DOBEs as eligible partners into contractor and agency Supplier Diversity Program plans. This change is designed to increase the number of DOBEs available to work with the Commonwealth and its contractors by creating an economic incentive for</p>

² Disability:IN, formerly known as the US Business Leadership Network (USBLN), is: the country’s leading supplier diversity organization focused on expanding opportunities for disability-owned business enterprises (DOBEs) in procurement across the private and public sectors; the SDO’s exclusive national certifier of DOBEs; and a key supplier diversity partner of the Commonwealth since issuance of Executive Order 565.

³ Spending with DOBEs will be included in SDO’s FY 2018 Annual Report, which will be published by January 15, 2019.

<p>Leadership Network (MABLN), local chambers of commerce and the Massachusetts Office of Business Development to recruit more businesses owned by individuals with disabilities for DOBE certification and state contracting work.</p> <ul style="list-style-type: none"> ▪ Allow DOBEs to be counted in a contractor’s SDP plans in FY 2018, laying the groundwork for the establishment of a future DOBE benchmark. <p>This objective, which is consistent with the Act and Executive Order 565, is designed to:</p> <ul style="list-style-type: none"> • Result in more certified DOBEs; • Allow DOBEs to be included by contractors and state agencies in SDP plans; and • Allow the Commonwealth to establish an executive agency benchmark for DOBEs in the SDP in the future. 	<p>new businesses to seek DOBE certification and for existing DOBE-certified businesses to engage with the Commonwealth more actively.</p> <p>The SDO and other OSD staff attended approximately 30 educational and networking events to recruit new businesses into its certification programs, including DOBE certification.</p>
<p><u>Goal #3: Develop a Central Repository of Resources for Individuals with Disabilities:</u></p> <p>Under the Act, the SDO must “provide assistance to the executive offices in determining opportunities for contracting with businesses that hire persons with disabilities...” The SDO and MOD will meet this requirement by:</p> <ul style="list-style-type: none"> ▪ Providing contractors with a list of executive branch employment services agencies that assist employers with hiring individuals with disabilities; ▪ Soliciting private/non-profit employment services organizations that assist employers with hiring individuals with disabilities; ▪ Expanding the Massachusetts Office on Disability’s Mentoring Program; and ▪ Developing opportunities for connecting individuals with disabilities, executive branch agencies, contractors, and employment services organizations in order to socialize these organizations with individuals with disabilities seeking employment. 	<p>MOD compiled and published on its website a repository of Executive Branch employment services agencies and other public resources available to assist individuals with disabilities, including the Massachusetts Rehabilitation Commission, Massachusetts Commission for the Blind, MassHire Department of Career Centers, Disabled Veterans’ Outreach Program, Massachusetts Employment Services Program and the University of Massachusetts Work Without Limits. The SDO has included a link to this page on the SDO Resources webpage.</p> <p>In addition, the SDO and MOD are in the process of developing a solicitation to seek non-profit sector resources available for individuals with disabilities. Using a public solicitation process to compile the repository of non-profit sector resources will ensure that the process is open and fair to all interested parties.</p>

<p><u>Goal #4: Due Diligence Review of Current and Best Practices:</u></p> <p>Without well-established data from other states to inform how to properly set goals for participation of individuals with disabilities in state procurement and contracting, the SDO has turned to state legislative proposals, the 503 Utilization Goal and other relevant federal law and regulations and will work to develop a baseline of current practices by contractors and the general population. Data from the U.S. Census Bureau’s American Community Survey, which is contained within the report Commissioned by MOD, “Disability & Worker Characteristics in Massachusetts”, indicates that nearly two-thirds of all working age individuals with disabilities are not participating in the workforce.⁴ The Commonwealth will conduct additional research and gather feedback from businesses and community leaders by:</p> <ul style="list-style-type: none"> ▪ Developing and conducting a survey asking contractors to share staffing levels and hiring practices, culture, and efforts made to hire or recruit with the intent to hire individuals with disabilities; ▪ Conducting roundtable meetings with contractors to gain insight into their current practices and policies relative to individuals with disabilities; and 	<p>To better understand how to set the participation goals contemplated by the Act, the SDO and MOD continued research to learn about other states’ practices. Since the Act’s enactment, our two offices have worked together to reach out to our constituents, state agencies, federal agencies, and other stakeholder groups, including discussions with the Disability Advocacy Employment Group, which is an ad-hoc group of various disability organizations such as the Boston Center for Independent Living, Easter Seals and Multi-Cultural Independent Living Center, as well as Work, INC. and other organizations. Through that outreach, we continue to learn about the challenges and opportunities of employment for individuals with disabilities as it relates to government contracting.</p> <p>The SDO and MOD worked closely with the Office of Federal Contract Compliance Programs (OFCCP)⁵ policy personnel to study the federal Section 503 program and learn from its success and best practices.</p> <p>In addition, MOD helped support, develop and promote the Cornell University Survey Study of the 503 Utilization goal.⁶ MOD staff were present at the Cornell Presentation of the survey findings</p>
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⁴ According to the American Community Survey (“ACS”), an estimated 64% of working age persons with disabilities in Massachusetts were not working in 2014 either because they did not have a job even though they were actively looking and were available to start a job, or because they were not in the labor force. Source: [U.S. Census Bureau, Table R2303: Employment/Population Ratio For the Civilian Population 16 to 64 Years Old - United States – States; and Puerto Rico](#), 2014 American Community Survey 1-year Estimates (http://factfinder.census.gov/bkmk/table/1.0/en/ACS/14_1YR/R2303.US01PRF). The ACS Survey data for 2015 states also that out of the 3,127,728 people currently working in Massachusetts (ages 18-64), 137,985 are persons with disabilities (or 4.225%). This 4.225% does not include individuals with disabilities outside of the workforce.

⁵ Oversight of the federal 503 Utilization Goal falls under the auspices of the Office of Federal Contract Compliance Programs (OFCCP), which is the agency charged with overseeing compliance with federal contracting programs. MOD engaged OFCCP in a very positive dialogue, but was informed that they have not yet collected any data on the Utilization Goal, other than the data collected in the Cornell Survey.

⁶ [von Schrader, S., & Bruyère, S. M. \(2018\). Executive summary: What works? How federal contractors are implementing Section 503. Ithaca, NY: Yang-Tan Institute on Employment and Disability](#) (<https://digitalcommons.ilr.cornell.edu/edicollect/1362/>).

<ul style="list-style-type: none"> Collaborating with key stakeholders in the review and assessment of the results and data obtained. 	<p>at the 2018 ADA Symposium presentation and at the 2017 AAPI Civil Rights Forum conference at which the OFCCP presented on their 503 Utilization Goal program.</p> <p>Disability:IN and its local affiliate, MABLN, have confirmed that, to their knowledge, no state or municipality has established disability workforce participation goals for contractors and subcontractors. However, we continue to study current practices in other states, the federal government, and large and small businesses to better understand the opportunities for individuals with disabilities as employees, contractors, and subcontractors.</p>
<p><u>Goal #5: Establish Employment Percentage Goals:</u> As part of a one-year pilot program commencing by FY 2019, the SDO, in consultation with the MOD, will set a utilization, contract-based goal of 7% for the inclusion of qualified individuals with disabilities in any state contract for three services to be specified by the SDO that may include, but shall not be limited to, janitorial and custodial services, landscaping services, mailroom services, food services, fleet management, manufacturing, trash removal, document destruction, electronic scanning of documents, and facility management services including but not limited to HVAC Services, Painting, Emergency Repair Services, and Snow Removal. This utilization goal is not to be used as a quota or a ceiling that limits or restricts the employment of individuals with disabilities.</p> <p>For purposes of the pilot, contractors would apply the utilization goal to the awarded contract’s direct workforce needs, or to their entire workforce if the contractor has 50 or fewer employees. The SDO would utilize the definition for a “qualified individual” set forth in Section 503 of the Rehabilitation Act of 1973 regulation.</p>	<p>The content and timeline for implementation of this goal was informed by the passage of Section 88 of the FY 2019 Budget. Since the launch of the SDO Individuals with Disabilities Program, the SDO and MOD:</p> <ul style="list-style-type: none"> Collaborated with the Disability Advocacy Employment Group, including touring one member organization’s operations; Collaborated with several executive departments to identify three contracts for which a utilization goal for individuals with disabilities will be established; Developed SDO Disability Program contract language for inclusion in Commonwealth Requests for Responses (RFR); Developed an SDO Disability Program Questionnaire Form to collect information on disability employment practices from companies submitting bids for contracts included in the pilot; and Reviewed federal Form CC-305, Voluntary Self-Identification of Disability, as a resource for Commonwealth contractors to track disability employee percentages under the pilot.

<p>This pilot program utilization goal will apply to new state contracts only. Like the federal 503 Utilization Goal, failing to meet the Commonwealth’s utilization goal of 7% will not result in a fine, penalty or sanction. Consistent with the objective of the federal goal, Massachusetts’s 7% goal will assist contractors in measuring their success in the recruitment, hiring, promotion and retention of individuals with disabilities.</p> <p>The pilot program will run through FY 2019 and after the conclusion of that one year period, the SDO will conduct an assessment of the pilot, its progress and its outcomes, which shall be reported upon by October 31, 2019, consistent with the reporting requirements of the Act.</p>	<p>As of the writing of this report, the SDO and MOD have identified two of the three contracts which will include a utilization goal for individuals with disabilities:</p> <ul style="list-style-type: none"> ▪ The Statewide Contract for Office Supplies, Recycled Paper and Envelopes to be issued by the OSD; and ▪ The Food and Dietary Services Contract to be issued by DDS. <p>The three contracts will be issued in FY 2019. The SDO and MOD continue to work to identify the third contract envisioned in this goal.</p> <p>On September 6, 2018, the OSD issued a Request for Information (RFI) on setting employment goals for persons with disabilities under the Statewide Contract for Office Supplies, Recycled Paper and Envelopes. The RFI aimed to collect information from potential bidders on their current level of awareness and current practices related to hiring individuals with disabilities. The RFI also sought comments on the draft SDO Disability Program contract language.</p> <p>The RFI garnered four responses from prospective bidders. While respondents ranged in size, current practices and human resources systems, all were willing to participate in the pilot and none identified program participation as an impediment in bidding on the contract.</p>
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Other initiatives for Individuals with Disabilities:

In addition to the ongoing programs available from the Department of Developmental Services (DDS), Department of Mental Health (DMH), the Disabled Veterans’ Outreach Program, the Massachusetts Commission for the Blind (MCB), the Massachusetts Employment Services Program, the Massachusetts Office on Disability (MOD), the Massachusetts Rehabilitation Commission (MRC), the MassHire Department of Career Centers, and University of Massachusetts Work Without Limits, the SDO and/or MOD undertook the following additional initiatives consistent with goals of the Act:

- **Disability Employment Advocacy Group:** MOD and SDO staff regularly attends and presents to the Disability Employment Advocacy Group on the Act, Section 88, and other initiatives relative to the state hiring qualified individuals with disabilities. The Group is made up of many local disability

advocates, organizations, non-profits, and state agency personnel to discuss policies and best-practices to increase the numbers of qualified individuals with disabilities applying for state employment and employment with state contractors and sub-contractors. Furthermore, this Group provides a conduit to state leadership, and serves as a platform for the exchange of ideas to better educate policymakers on hiring/recruiting and barriers related thereto, in the community of individuals with disabilities.

- **Roundtable on Employing Individuals with Disabilities:** The Group identified that the Massachusetts Rehabilitation Commission (MRC) and the Massachusetts Commission for the Blind (MCB) work with many consumers that are potentially qualified individuals with disabilities for state employment (and internship) opportunities. To further explore this, MOD, and partners at the MRC, MCB, HRD's Office of Diversity and Equal Opportunity (ODEO), and the Massachusetts Developmental Disabilities Council convened the Roundtable on Employing Individuals with Disabilities. As an outcome, MOD presented to state human resource personnel on the Roundtable findings, and will be holding a hiring resource event in November. This event will include state hiring managers and human resource personnel and features presentations by MRC and MCB vocational rehabilitation employment specialists on their programs to assist the state in hiring qualified individuals with disabilities. Moreover, MRC and MCB have both committed staff to be points of contact to meaningfully assist the state on filling their hiring needs on an ongoing basis.
- **National Task Force on Workforce Development for People with Disabilities:** The Massachusetts Commission for the Blind (MCB) Commissioner serves as a member and co-chair of the National Task Force on Workforce Development for People with Disabilities.
- **Learn to Earn:** This partnership among the three Executive Offices of Education, Housing and Economic Development and Labor and Workforce Development provides grants to help unemployed and underemployed individuals, including individuals with disabilities, gain credentials for occupations and employment in high demand fields.
- **Massachusetts Office on Disability and Human Resources Division's Disability Mentoring Week:** Held the week of October 22, 2018, this cross-departmental initiative gave individuals with disabilities the chance to explore career opportunities within state government. Mentees learned resume-building skills and became proficient on job search features and profile making in MassCareers. Mentors learned more about the barriers existing for individuals with disabilities in employment, and that many qualified individuals with disabilities exist to meet their employment needs. Mentor/Mentee survey results are pending, but agencies are considering interviewing mentees for current and future job openings, for which they are qualified. Moreover, two mentees have secured employment.
- **Massachusetts Office on Disability's Annual Disability Summit:** The 2018 Summit, which was partially focused on Employment Opportunities for Persons with Disabilities, was held on October 5, 2018. The Summit included over 350 attendees including presenters that are disability employment policy experts and researchers. Their presentations provided data and insight into the barriers to successful employment outcomes for the disability community. The research and data presented at the Summit will be used by MOD and SDO going forward to better inform policy decisions for establishing future participation goals for state contractor businesses that hire, or identify and recruit with the intent to hire, qualified applicants with disabilities.

Conclusion:

This report contains an update on the implementation of the five biennial goals on non-discrimination and inclusion of individuals with disabilities established in the FY 2017 report. At the midpoint in the goal implementation process, one goal has been completed and significant progress has been made on each of the remaining four goals. Much of the progress made is an investment in future program activity, such as research, contract language development and survey design. The SDO and MOD work on implementing the program has resulted in successful discussions, collaboration, partnership and learning involving individuals and organizations in the public, private and non-profit sectors. Our research shows that the Commonwealth continues to be the only state with a program aimed at setting an employment utilization goal for individuals with disabilities for entities that contract and sub-contract with the state.

The Commonwealth continues to be committed to fostering a workforce and marketplace that reflect the diversity of the citizens of the Commonwealth and that provide opportunities to individuals with disabilities seeking employment, and businesses owned by individuals with disabilities seeking contract opportunities. The Supplier Diversity Office looks forward to continuing to work with the Massachusetts Office on Disability and other interested parties in researching and establishing best practices that promote inclusion and opportunity for individuals with disabilities. We welcome and will continue to seek input from stakeholders as we continue to implement this important law.

Appendix 1: Enabling Legislation

Section 4 of Chapter 219 of the Acts of 2016⁷:

(s) The SDO shall, every 2 years and in consultation with the Massachusetts Office on Disability, establish goals for participation of individuals with disabilities in all areas of state procurement contracting. Participation goals may be met by contracting or subcontracting with businesses that hire, or identify and recruit with the intent to hire, qualified applicants with disabilities. SDO shall provide assistance to the executive offices in determining opportunities for contracting with businesses that hire persons with disabilities to meet the participation goal set forth in this paragraph, including contractors and subcontractors providing goods and services under multi-year contracts or grants funded by agencies within the executive offices.

SDO shall file an annual report with the clerks of the house of representatives and the senate on or before October 31 on the progress made toward meeting the participation goal set forth in this paragraph.

Subsequent to the passage of the Act, the Legislature passed the following Outside Section 88 (SDO Disability Pilot) of Chapter 154 of the Acts of 2018, the FY 2019 Budget⁸:

⁷ Section 4 of Chapter 219 of the Acts of 2016 inserted subsection (s) into Section 61 of chapter 7 of the General Laws.

⁸ Chapter 154 of the Acts of 2018, An Act making appropriations for the Fiscal Year 2019.

Notwithstanding any general or special law to the contrary, the supplier diversity office, in consultation with the Massachusetts office on disability, shall establish a pilot program with a utilization, contract-based goal of 7 per cent for the inclusion of qualified individuals with disabilities in any state contract for 3 services to be specified by the supplier diversity office that may include, but shall not be limited to: (i) janitorial and custodial services; (ii) landscaping services; (iii) mail room services; (iv) food services; (v) fleet management; (vi) manufacturing; (vii) trash removal; (viii) document destruction; (ix) electronic scanning of documents; and (x) facilities management services which shall include, but not be limited to, HVAC services, painting, emergency repair services and snow removal. The pilot program shall promote the recruitment, hiring, promotion and retention of individuals with disabilities and assist state contractors in evaluating and measuring levels of success in the recruitment, hiring, promotion and retention of individuals with disabilities. The utilization goal shall not be used as a quota, limit or restriction on the employment of individuals with disabilities.

For the purposes of the pilot program: (i) contractors shall apply the utilization goal to the direct workforce needs of the awarded contract or to the entire workforce of the contractor if the contractor has 50 or fewer employees; and (ii) a qualified individual shall have the same meaning as set forth in 41 C.F.R. 60-741.2. The pilot program shall not apply to existing state contracts.

The pilot program shall be established not later than September 1, 2018. Not later than September 1, 2019, the supplier diversity office shall file an interim report on the progress of the pilot program. An additional final report shall be filed not later than 180 days after the completion of the pilot program. The reports shall be filed with the clerks of the senate and house, the chairs of the senate and house committees on ways and means, the chairs of the joint committee on state administration and regulatory oversight and the chairs of the joint committee on children, families and persons with disabilities.