



OPERATIONAL SERVICES DIVISION
SUPPLIER DIVERSITY OFFICE

SERVING PUBLIC BUYERS AND VENDORS OF THE COMMONWEALTH OF MASSACHUSETTS



Operational Services Division

Supplier Diversity Office

Fiscal Year 2017 Report to the Legislature on the Expansion of Opportunities for Individuals with Disabilities in State Procurement and Contracting



THE COMMONWEALTH OF MASSACHUSETTS
Executive Office for Administration and Finance
OPERATIONAL SERVICES DIVISION

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OPERATIONAL SERVICES DIVISION

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October 31, 2017

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.

Dear Senate Clerk Welch and House Clerk James:

The Supplier Diversity Office (SDO) of the Operational Services Division (OSD) is pleased to submit this Fiscal Year 2017 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").

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



Fiscal Year 2017 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”)¹:

(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. (Emphasis added.)

The Supplier Diversity Office (SDO) is 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. The SDO, in consultation with the Massachusetts Office on Disability (MOD), is conducting research needed to accomplish the Act’s objectives and will commence a pilot program applying a utilization goal of 7% beginning in FY19.

Background:

The Supplier Diversity Office, within the Operational Services Division, 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 authorizing the SDO to include all businesses majority-owned and controlled by individuals with disabilities, among other groups, within the Supplier Diversity Program.

The Act provides further clarification that the SDO is charged with the inclusion of individuals with disabilities in all areas of state procurement and contracting. However, 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 should now identify, recruit and hire qualified **individuals** with disabilities.

¹ Section 4 of Chapter 219 of the Acts of 2016 inserted subsection (s) into Section 61 of chapter 7 of the General Laws.

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. Over the last several years, various bills have been introduced in the Legislature to establish employment goals including House Bill No. 3362 which would require vendors conducting business with the Commonwealth to employ individuals with disabilities. Our Administration is working to foster opportunities for the disability community within and beyond the framework of Executive Order 565 and in the spirit of House Bill No. 3362.

Current Administration Initiatives for Individuals with Disabilities:

Massachusetts currently offers a wide array of programs throughout state government that are specifically dedicated to employment of individuals with disabilities, including programs run by the following Commonwealth agencies:

- Massachusetts Office on Disability (MOD)
- Massachusetts Rehabilitation Commission
- Massachusetts Commission for the Blind
- Department of Developmental Services
- Department of Mental Health

Below are some of the public employment and workforce development programs offered by these agencies and other entities of the Commonwealth:



In addition, the following are existing Commonwealth-sponsored opportunities available for individuals with disabilities:

- Supplier Diversity Program's Disability Owned Business Enterprises: 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. Thus far, through SDO's certification program with the United States Business Leadership Network, there are 34 DOBEs certified to do business with the Commonwealth.
- Model Employer: The Commonwealth's Model Employer initiative is a state government program that seeks to increase the number of people with disabilities employed by the Executive Branch. Some of the goals of the Model Employer initiative include:
 - Exploring methods to ensure the successful retention and promotion of state workers with disabilities and older workers who age into disability;
 - Fostering an environment and a workforce able to support and facilitate the employment of people with disabilities;
 - Improving the collection and analysis of data on this important demographic of diversity through a reporting system that provides people with disabilities with the tools to self-identify; and
 - Gathering data and analyzing Massachusetts's model employer activities compared with those of other states and identifying policies and practices that the Commonwealth could adopt as potential ways of increasing the percentage of Commonwealth employees with disabilities.
- National Task Force on Workforce Development for People with Disabilities: MOD's Director serves as a member and co-chair of the National Task Force on Workforce Development for People with Disabilities (see below for more information).
- 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 16, 2017, this cross-departmental initiative gave persons with disabilities the chance to explore career opportunities within state government.
- Massachusetts Office on Disability's Annual Disability Summit: The 2017 Summit, which was focused on Employment Opportunities for Persons with Disabilities, was held on September 15, 2017 in the Great Hall of the Massachusetts State House and included almost 300 attendees. MOD's message delivered at the Summit was that successful employment outcomes foster dignity, self-determination, and independence.

These initiatives are aimed at providing employment and career and business development opportunities to individuals with disabilities, consistent with the goals of the Act. The SDO and MOD are committed to expanding upon these existing opportunities by providing more employment and business opportunities to individuals with disabilities in state procurement and contracting as directed by the Act.

Research Underway:

To better understand how to set the participation goals contemplated by the Act, the SDO, in collaboration with the MOD, has commenced research to learn about other states' practices. Since the Act's enactment last year, our two offices have worked together to reach out to our constituencies, state agencies, federal agencies, and other stakeholder groups, including discussions with the Employment NOW 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 the U.S. Business Leadership Network (USBLN)² and the Massachusetts Business Leadership Network (MABLN) and other organizations. (See Appendix A for examples of our outreach activities.) Through that outreach, we have learned more about the challenges and opportunities of employment for people with disabilities as it relates to government contracting. We have also been conducting research on the 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. The USBLN 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.

Throughout 2016, the MOD's Director, David D'Arcangelo, served as a member and co-chair of the National Task Force on Workforce Development for People with Disabilities. This effort originated through the U.S. Department of Labor's Office of Disability Employment Policy (ODEP), which launched the State Exchange on Employment & Disability, or SEED initiative. SEED is a collaborative effort by the Council of State Governments and the National Conference of State Legislatures with the goal of providing a framework on disability employment programs across all 50 states to inform state legislators and other policy makers on how best to improve employment outcomes for people with disabilities. This work led to the publication of the report, "Work Matters: A Framework for States on Workforce Development for People with Disabilities."³

Participating in the Work Matters Task Force proved valuable because MOD realized that the Commonwealth is endeavoring to undertake a program that has apparently not been done before. However, the Work Matters report serves as a blueprint of best practices for disability employment policies for all 50 states, which we can now draw upon as a resource. Additionally, through the Task Force, MOD built connections to leading public policy experts in the disability community across the country, which include introductions to Dr. Sarah von Schrader, leading researcher at Cornell University, and Debra A. Carr, Director of the Division of Policy, Planning and Office of Federal Contract Compliance Programs at the U.S. Department of Labor, who are currently researching the practices of federal contractors and the 503 Utilization Goal – a body of federal regulations that are consistent with the objectives of the Act.⁴

² 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 http://www.csg.org/NTPWD/documents/SEED_Report_2016_WEB.pdf

⁴ The 503 Utilization Goal is set forth in federal regulations, implementing Section 503 of the Rehabilitation Act, and establishes a goal for businesses that engage in federal contracting by seeking to have 7% of a federal contractor's workforce be people with disabilities and further requiring contractors to "conduct an annual utilization analysis and assessment of problem areas, and

Oversight of the 503 Utilization Goal falls under the auspices of the Office of Federal Contract Compliance Programs (OFCCP), which is the federal 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.

SDO Plan for FY 2018-2019 for Participation of Individuals with Disabilities in State Procurement and Contracting:

The SDO, in consultation with MOD, has identified the following goals to expand the inclusion of and opportunities for individuals with disabilities in state procurement and contracting:

1. Contract Anti-Discrimination Terms: The Commonwealth will ensure that contractors are aware of their responsibility for adhering to existing laws that prohibit discrimination against individuals with disabilities by:
 - Confirming this fiscal year that anti-discrimination provisions are included in all contract forms (including goods, services and construction contracts); and
 - Requiring contractors to agree, when they sign contracts with the Commonwealth, that they shall not discriminate on the basis of an individual’s disability (in addition to other non-discrimination classifications).

This objective will ensure 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.

2. Expand Inclusion of Disability-Owned Business Enterprises (DOBE): As discussed above, Executive Order 565 authorized the Commonwealth’s Supplier Diversity Program (SDP) to include Disability Owned Business Enterprises (DOBEs). In Fiscal Year 2018, the SDP has commenced the following actions:
 - Increased outreach to businesses owned by individuals with disabilities to encourage their:
 - Applying for free DOBE certification by SDO’s DOBE certification partner, the United States Business Leadership Network (USBLN);
 - 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).

The SDP’s outreach includes partnering with the USBLN, the Massachusetts Business Leadership Network (MABLN), local chambers of commerce and the Massachusetts

establish specific action-oriented programs to address any identified problems." As of the printing of this report, no such data exists from the OFCCP. Source: <https://www.dol.gov/ofccp/regs/compliance/section503.htm>

Office of Business Development to recruit more businesses owned by individuals with disabilities for DOBE certification and state contracting work.

- Allowing DOBEs to be counted in a contractor's SDP plans in Fiscal Year 2018, laying the groundwork for the establishment of a future DOBE benchmark.

This objective, which is consistent with the Act and Executive Order 565, will:

- Result in more certified DOBEs;
- Allow DOBEs to be included by contractors and state agencies in Supplier Diversity Program plans; and
- Allow the Commonwealth to establish an executive agency benchmark for DOBEs in the SDP.

3. Develop a Central Repository of Resources for Individuals with Disabilities: 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:
 - Providing contractors with a list of executive branch employment services agencies that assist employers with hiring individuals with disabilities, including the Massachusetts Rehabilitation Commission, Massachusetts Commission for the Blind, Massachusetts One Stop Career Centers, Disabled Veterans' Outreach Program, Massachusetts Employment Services Program, the University of Massachusetts Work Without Limits and other Commonwealth career centers;
 - 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.
4. Due Diligence Review of Current and Best Practices: 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.⁵ The Commonwealth will conduct additional research and gather feedback from businesses and community leaders by:

⁵ 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: 5 U.S. Census Bureau, Table R2303:

- 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
 - Collaborating with key stakeholders in the review and assessment of the results and data obtained.
5. Establishing Employment Percentage Goals: 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.

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.

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.

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.

Conclusion:

The five objectives outlined above will work to ensure that the Commonwealth's business partners share the Commonwealth's goal for inclusion of and nondiscrimination against individuals with disabilities. They will generate real opportunities for individuals with disabilities, whether they own a business and are seeking

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.

business opportunities as contractors and/or subcontractors⁶ of the Commonwealth or are individuals with a disability seeking employment opportunities with the Commonwealth or with Commonwealth contractors. Finally, after closely working with the Massachusetts Office on Disability, we believe that further consideration of the federal 503 Utilization Goal and additional research on employment and hiring practices for individuals with disabilities will position the SDO to commence a one-year pilot program by FY 2019 that will include a utilization goal of 7% for the inclusion of individuals with disabilities in state contracts affecting three key service areas. An assessment of that pilot program's outcomes will inform future programmatic expansion.

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 and businesses owned by individuals with disabilities. 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.

⁶ Contract and Subcontract opportunities are also referred to as direct and indirect spending respectively. Each state agency can achieve their benchmark spending goals through direct and indirect spending with diverse businesses. Direct spending refers to purchases of goods and services directly from diverse businesses. Indirect spending refers to the requirement that businesses awarded large contracts (over \$150,000) for goods and services make measurable financial commitments to do business with one or more diverse businesses (also called Supplier Diversity Program Partners).

Appendix A

Expansion of Opportunities for Individuals with Disabilities – Examples of SDO and MOD Activities

| Dates | Activities |
|-----------------------------|---|
| 08/10/16 | Ch. 219 of the Acts of 2016, An Act Relative to Job Creation and Workforce Development, was approved and M.G.L. c. 7, Sec. 61 (s) goes into effect. |
| 10/27/16 | Attended Boston Center for Independent Living announcement of the Act creating M.G.L. c. 7, Sec. 61 (s). |
| 10/31/16 | SDO submitted annual report to Clerks of Senate and House, stating that SDO would be consulting with multiple organizations in order to establish participation goals. |
| 11/2016- 12/2016 | Conducted research to determine if other states are implementing similar programs but none are found. Contacted OFCCP for Section 503's 7% utilization goal data but are told that no such data exist yet. |
| 12/2016-2/2017 | Biweekly meetings of working group to discuss implementation options. |
| 02/28/2017 | Attended listening session with Boston Center for Independent Living and Easter Seals. |
| 03/2017 | Discussed Section 503 implementation and progress with OFCCP and Solicitor's Office. |
| 03/2017- 06/2017 | Discussions with constituents put on hold due to House and Senate versions of bills that would mandate specific goals; The Executive Office for Administration and Finance and SDO met with House and Senate to discuss bills. Working group continued to meet to discuss proposed legislation, and to refine policy proposal and implementation options, including meetings with representatives from the Executive Offices for Labor and Workforce Development and Health and Human Services. |
| 04/2017- 07/2017 | Attended several meetings with the MA Business Leadership Network, Work Without Limits (WWL) and Business Advisory Council (BAC). |
| 06/2017-Present | Working group resumed regular meetings to discuss recommended policy options, implementation plan, next steps and annual report. |
| 10/5/2017 | SDO and MOD attended and presented at Working Without Limits Raise the Bar HIRE Conference. |