



2024 Small Business Development Program Annual Report (ORS 184.906)



Small Business Development Program
Office of Equity and Civil Rights
December 2024

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About the Office of Equity and Civil Rights

The Office of Equity and Civil Rights manages ODOT’s implementation of federal and state programs that provide equal access to services and economic opportunities for all. This information is available in alternate formats by contacting ODOT Office of Equity and Civil Rights, 800 Airport Rd SE, Salem, OR 97301. Call toll-free 855-540-6655 or E-mail odot_ada@odot.oregon.gov. ODOT does not discriminate on the basis of disability in admission or access to our programs, services, and activities.

Executive Summary

In 2024, the Oregon Department of Transportation made significant strides in developing its Small Business Development Program. Key milestones included the hiring of a dedicated program manager, the formation and active engagement of an internal task force and external advisory committee, and approval of the program by the Federal Highway Administration. We drafted program rules, convened a rules advisory committee, and engaged in multiple public comment periods to ensure transparency and gather interested party input. The culmination of these efforts was the approval of the SBDP rules by the Oregon Transportation Commission on December 4, 2024, setting the stage for program implementation in 2025.

Purpose

We are committed to advancing equity in our contracting practices. The SBDP stands up ORS 184.906 (2023 Senate Bill 1048) and furthers the state's goal of embedding equity by increasing the number of small businesses competing for and being awarded state procurements.

The purpose of the SBDP is to empower small businesses to participate as prime contractors in state transportation construction projects. The SBDP creates a dedicated pathway for qualified small businesses, including minority-owned businesses, to compete for and win prime ODOT construction contracts. The program is race- and gender-neutral. When fully implemented, we will award up to \$25 million annually in prime construction contracts to qualified small businesses. Through this program, we will increase the ability, capacity, experience, and number of construction contractors doing business with ODOT.

Program Requirements

The SBDP will identify suitable transportation construction projects for qualified small businesses and provide support related to preparing and submitting competitive bids. Below are the specific requirements identified for the SBDP in ORS 184.906:

- a. Identify public improvements that are suitable for a qualified small business to undertake successfully as a general contractor;
- b. Provide a directory or repository of resources to assist a qualified small business in preparing competitive bids or proposals that meet the specifications set forth in solicitations for the department's public improvement contracts;
- c. State in the department's solicitation materials for public improvement contracts, that the department identifies under paragraph (a) of this subsection, that the department will receive bids or proposals solely from qualified small businesses;
- d. Designate department employees who have experience or familiarity with challenges that qualified small businesses face in competing for the department's public improvement contracts to answer questions, and provide support, assistance and

information related to preparing and submitting bids or proposals that is lawful and does not contravene the policies set forth in ORS 279A.015; and

- e. Evaluate bids and proposals from, and award public improvement contracts to, qualified small businesses on the basis of a determination of the best value to the state.

Federal Highway Administration Approval

In May 2024, FHWA approved the SBDP, stating the initiative falls in line with agency-wide equity goals and that by achieving the above requirements, the SBDP holds the potential to enable small construction firms to gain the knowledge, experience, and resources needed to participate in the competitive process for ODOT contracts, thereby increasing capacity and competition for public improvement contract awards, and potentially lowering the cost to the public for transportation-related work. The FHWA supports the SBDP given that:

- It is a race- and gender-neutral program per 49 CFR Part 26 and Oregon statutes prohibit small-business set-aside projects.
- All bidders for the SBDP are prequalified as ODOT prime contractors before bid, according to ODOT's existing process.
- All federal and state procurement, contract, bonding, and liability requirements are met.

State of Oregon Interagency Alignment

Throughout program development in 2024, staff from our Office of Equity and Civil Rights and Procurement Equity aligned efforts on small business initiatives by meeting biweekly with staff from DAS Procurement Equity. The SBDP is one method by which we are aiding small businesses in competing for public improvement contracts.

Small Business Development Program Advisory Committee

In addition to a task force comprised of leaders from across ODOT, tribes, and other small business owners served as advisors and provided input. In May 2024, we convened an advisory committee of industry association representatives and small and mid-size business owners to advise program development and provide input in advance of rule writing. Representatives from the following industry associations served on the Advisory Committee.

- National Association of Minority Contractors
- Professional Business Development Group
- Oregon Association of Minority Entrepreneurs
- LatinoBuilt
- Oregon APEX Accelerator
- Associated General Contractors of America

The SBDP Advisory Committee was actively involved in advising the department on criteria for

qualifying small businesses, criteria for suitable public improvement projects, and resources that would be helpful to qualify small businesses in preparing competitive bids as well as the types of support that would be helpful in successful project delivery.

Qualification Criteria

ORS 184.906 says small businesses can qualify for the SBDP by being registered with the SBA and qualifying for the small disadvantaged business program or by being COBID certified as an Emerging Small Business. The legislation allowed us to expand qualifying criteria through rulemaking.

In consultation with our advisory committee, and through rulemaking, we expanded eligibility to include:

- SBA registration: Any small construction firm registered with the SBA and able to qualify for any of its small business contracting programs.
- COBID-certified construction firms: Any construction firm certified by COBID.

To further streamline the qualification process and remove potential barriers, we implemented a self-qualification option. This option allows small businesses to certify their eligibility based on criteria closely aligned with SBA and COBID standards. A small business may self-qualify if it meets ALL of the following criteria:

- The business is for-profit;
- The business is in the construction industry;
- The business is independently owned and operated;
- The business is not a subsidiary of another business;
- The business is registered with the Secretary of State;
- The business has employed fewer than 500 employees annually*;
- The gross receipts of the business do not exceed \$45 million annually*.

*To qualify for federal government programs, businesses must meet Small Business Administration size standards. These standards vary by industry, as defined by the North American Industry Classification System. For highway, street, and bridge construction (NAICS code 237310) and other heavy and civil engineering construction (NAICS code 237990), businesses must meet criteria such as the following:

- Average annual gross receipts: \$45 million or less
- Average annual number of employees: 500 or fewer

Suitable Projects

Having FHWA support enables SBDP projects to be federal and state funded. Projects will come from our Statewide Transportation Improvement Program. When fully implemented, the program will offer projects in all five ODOT regions.

A vital requirement of the SBDP is the identification of transportation construction projects suitable for qualified small businesses to undertake as prime contractors, and to provide support and resources for successful delivery. In consultation with our advisory committee, we identified the following criteria for suitable projects for the SBDP:

- Included in the STIP
- Project size up to \$2.5 million
- Requires minimal or no specialized expertise
- Single function* (e.g., lighting, asphalt, drainage, curbing, guardrails, simple structures)

*A single-function project primarily has one asset/scope that is being constructed so there are fewer complexities involved in completing the project.

An internal workgroup reviewed the STIP for suitable projects for the program. As of December 2024, six potential projects have been identified. The projects under review are located in Regions 1, 2, and 3 and involve culvert, curb ramp, and illumination projects.

Program Outreach

OECR staff have increased awareness of the SBDP through presentations at public and industry partner meetings. Additionally, major milestones have been shared through Gov Notifications and OECR's Equity Line newsletter. Outreach events in 2024 included:

- ODOT/AGC Conference – February
- Governor's Marketplace – May
- NAMC Monthly Meeting – July
- Governor's Marketplace – November
- Regional OECR Compliance Training Sessions Nov – December
- Doing Business with ODOT - December

Implementation Progress To Date

Below are highlights of the key milestones and significant achievements that have shaped the program's progression from its inception to its current state.

Date	Implementation Actions
January 30, 2024	FTE program manager started employment at ODOT.
February 13, 2024	Initial internal task force meeting kicked off program development.
May 2024	SBDP Advisory Committee convened and met.
May 21, 2024	Federal Highway Administration approved ODOT Small Business Development Program.
July 2024	SBDP Rule Advisory Committee convened and met.
August 2024	Draft SBDP rules filed with Secretary of State and initial public comment round held.
September 2024	Draft SBDP rules updated to reflect comments received in initial public comment round. Draft rules refiled with Secretary of State and second public comment round held.
December 4, 2024	Oregon Transportation Commission approved adoption of SBDP rules following presentation of SBDP update by staff.

Conclusion

We remain committed to the successful implementation of the Small Business Development Program. As we move into 2025, we are excited to announce the launch of the program's application portal in early January. This will enable small businesses to formally qualify and participate in upcoming projects. To ensure a smooth transition and optimal program impact, we are diligently working on developing comprehensive contract specifications and support resources. These efforts will empower small businesses to effectively compete for and successfully execute projects, growing capacity among small businesses and fostering competition within the Oregon transportation industry. By December 31, 2025, and annually thereafter, we will report to the legislature:

- Number of public improvement contracts the department identifies
- Number of public improvement contracts the department awards to qualified small businesses
- Number of qualified small businesses the department provides assistance to through the program
- Type and size of the qualified small businesses that participate in the program
- Total value of public improvement contracts the department awards through the program
- Other information about the program that the department deems relevant to report.