Ohio | Department of Administrative Services

Mike DeWine, Governor
Jon Husted, Lt. Governor

Matt Damschroder, Director

OFFICE OF
INSPECTOR GENERAL

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November 15, 2019

Mr. Randall J. Meyer
Ohio Inspector General
30 East Broad Street, Suite 2940
Columbus, OH 43215-3414

Dear Inspector General Meyer:

This letter is in response to the recommendations made by your office to the Ohio Department of Administrative Services (DAS) in File ID Number: 2018-CA00011. ODAS appreciates the input received from the Ohio Inspector General's Office in this and past reports.

TSG Partners, LTD received its Minority Business Enterprise (MBE) certification on May 30, 2014. In the years since, our Equal Opportunity Division (EOD) has implemented a more rigorous definition of the one-year requirement. That definition includes requiring an applicant to demonstrate that the business is operational through such things as contracts, payments from customers, documentation of business expenses, equipment necessary to perform the work, and more. In addition, EOD has added more rigor to the applicant review in order to better assess ownership, control of the business, relationships with other businesses, technical expertise, and the totality of the circumstances of the business structure and operation.

Understanding the need for continuous improvement, we are also taking the following actions in response to your recommendations:

Recommendation No. 1:

Review the conduct of TSG Partners, LTD and Kyle Schriml to determine if debarment is warranted pursuant to Ohio Revised Code §125.25.

Response:

We have reviewed the conduct of TSG, LTD and Kyle Schriml and intend to begin debarment proceedings. On November 14, 2019, DAS issued a Notice of Intent to Debar to TSG Partners, LTD and Kyle Schriml from consideration for contracts with the State of Ohio pursuant to Ohio Revised Code §125.25.

Recommendation No. 2:

Review the conduct of Advocate Consulting Group and Mark Schriml to determine if debarment is warranted pursuant to Ohio Revised Code §125.25.

Response:

We have reviewed the conduct of Advocate Consulting Group and Mark Schriml and intend to begin debarment proceedings. On November 14, 2019, DAS issued a Notice of Intent to Debar to Advocate Solutions, LLC, the successor to Advocate Consulting Group and Mark Schriml from consideration for contracts with the State of Ohio pursuant to Ohio Revised Code §125.25.

Recommendation No. 3:

Review the conduct of Advocate Solutions to determine if debarment is warranted pursuant to Ohio Revised Code §125.25.

Response:

We have reviewed the conduct of Advocate Solutions, LLC and intend to begin debarment proceedings. On November 14, 2019, DAS issued a Notice of Intent to Debar to Advocate Solutions, LLC from consideration for contracts with the State of Ohio pursuant to Ohio Revised Code §125.25.

Recommendation No. 4:

Implement a rule change to add Commercially Useful Function criteria to the MBE certification requirements contained in the Ohio Administrative Code §123:2-15. This language is already applicable to state EDGE (Encouraging Diversity, Growth and Equity program) certification through Ohio Administrative Code §123:2-16-15.

Response:

We agree that the Commercially Useful Function Criteria would help strengthen Ohio's MBE program and are currently in the early stages of pursuing changes. This change would allow DAS to ensure the MBE is authentically operating the management, workforce, equipment, materials, and performance of the business and is serving a necessary and useful role in the contracted transactions/services. This requirement will help to prevent MBE-certified companies from acting as a "pass-through" or "front company." DAS will continue its practice of watching for red flags that may indicate a "pass-through" or "front company" scheme and will take authorized review and penalty actions accordingly.

Recommendation No. 5:

Implement a more thorough review process of applications for MBE certification, including on-site reviews and strong affiliated business reviews, to remove the potential of pass-through businesses receiving MBE certification.

Response:

In addition to our already enhanced requirements and reviews, DAS will seek to require that MBE-recertification requests include documents that are currently only required at the time of initial application. In addition to the currently required affirmation of the business' continued operation and program compliance, the additional documents would include:

- Most recent annual income statement, profit and loss statement, balance sheet, and cash flow statement
- Three years of business and personal federal tax returns (for each owner)
- Personal net worth statements for the 51-percent owner(s) and spouse(s)

DAS will also seek to require that MBE-certified businesses fully reapply, not just request recertification, every cumulative six-years to verify continued program compliance and eligibility. This six-year reapplication will require submission of a full application and required supporting documentation. EOD will also conduct the deeper review of the business as well as conduct a site visit, which is also conducted at the time of initial application.

Further, DAS is considering the addition of State contract language stating that vendors may incur a financial penalty for intentional abuse of MBE laws or program rules. Vendors would also be required to make up in the future any shortfall in their proposed versus actual minority firm participation in a contract.

Recommendation No. 6:

Strongly consider a review of the EOD staffing and budget to assist EOD with the collection, assessment, and enforcement of the MBE program requirements and restrictions. EOD staff will continue to be strained with additional responsibilities from other EOD business enterprise initiatives.

Response:

DAS continues to explore alternative funding methods and will revisit this recommendation as a part of the next biennial budget process for FY 2022 – 2023.

DAS appreciates the importance of overseeing the MBE set-aside program in compliance with Ohio laws, rules, policies, and procedures. We continue to strive to preserve the efficiency and integrity of the program for our certified participants as well as the State agencies contracting through this set-aside program.

We appreciate this opportunity to share some of our upcoming proposals for improving the certification and accountability requirements of the program. Should you have any questions regarding our response, or need any additional information, please do not hesitate to contact me.

Respectfully,

Matthew M. Damschroder
Director