



Department of  
Administrative Services

Mike DeWine, Governor  
Jon Husted, Lt. Governor

Matt Damschroder, Director

OFFICE OF  
INSPECTOR GENERAL  
2019 APR 12 PM 4:34

April 12, 2019

Mr. Randall J. Meyer  
Ohio Inspector General  
Office of the Inspector General  
James A. Rhodes State Office Tower  
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 (ODAS) in File ID Number: 2018-CA00016. The Ohio Department of Administrative Services and the Equal Opportunity Division (EOD) appreciates the input it has received from the Ohio Inspector General's Office.

Based upon your report, our office has conducted a thorough review of the statutes and rules governing the Encouraging Diversity, Growth and Equity (EDGE) Program and our implementation of the EDGE program, specifically focusing on the 10-year time limitation and size standard. The program's purpose is to assist economically disadvantaged businesses that are owned and controlled by economically disadvantaged individuals. The 10-year limitation and the size standards were created by administrative rule pursuant to ODAS's statutory authority to "establish standards to determine when an EDGE business enterprise no longer qualifies for EDGE business enterprise certification." R.C. 123.152 (B)(4). Our office has concerns that an arbitrary 10-year time limitation may not be serving the program's purpose, because the passage of time alone may not be an equitable basis for removing businesses from the program. The size standards, by contrast, function to remove businesses from the program once they have reached a defined measure of success.

One possible outcome of our review may be a decision to repeal Ohio Adm. Code 123:2-16-03(J), the 10-year time limitation. Accordingly, although our office had previously taken steps to begin enforcement of this provision, we are temporarily suspending the process of denying certifications based on the 10-year time limitation. In our opinion, it would be unjust and disruptive to deny certifications to EDGE businesses on this basis, while the continued existence of this section of the rule is in question. We are, however, implementing your recommendations regarding verification of our existing records, specification of the method of calculating the time limitation, and improvements of our system that tracks current and past certifications, so that we will be prepared to take prompt action if we decide to retain this provision. We are proceeding with the enforcement of the current size standard, as described further below.

The following details our responses to the recommendations from your report.

Office of the Director  
30 East Broad Street, 40th Floor  
Columbus, Ohio 43215

614-466-6511  
das.ohio.gov

The State of Ohio is an equal opportunity employer.

**Recommendation Number 1:**

Review and revise written policies and procedures to ensure that the Ohio Department of Administrative Services, Equal Opportunity Division adequately documents, tracks, and applies the 10-year eligibility restriction as required by Ohio Administrative Code 123:2-16-03.

**Response**

On March 27, 2019, the Equal Opportunity Division, Business Certification and Compliance Unit's Standard Operating Procedure Manual (SOP) was updated to address the EDGE eligibility time limit requirements. The following text was added to the manual: "Program rules state that to be eligible, the applicant business must not exceed 10 cumulative years in the program." The SOP then proceeds to detail the calculation, and what happens when a certified business reaches the limit.

Additionally, a database was developed to display and track all certification dates of any business certified into the EDGE program. If a business is requesting recertification into the EDGE program, the database alerts program staff of any company exceeding 10 cumulative years in the EDGE program.

EOD is in the process of writing a Request for Proposal for a new operating software system. If the 10-year limitation is retained, that system will be designed to display all EDGE certification dates for each certification or recertification, and the system will not permit the application to be submitted if the business has exceeded 10 cumulative years in the EDGE program.

**Recommendation Number 2:**

Define and document how EOD will calculate what constitutes a 10-year period (consecutive vs. cumulative) for the purposes of enforcing the 10-year eligibility restriction as required by Ohio Administrative Code 123:2-16-05.

**Response**

EOD calculates the 10-year time limit restriction for participation in the EDGE program based on the cumulative number of days that a business has been certified in the program. Thus, periods of time during which the business was not certified do not count. The cumulative time period begins on the first date that ODAS has records that indicate that a business was EDGE certified. (In some instances, businesses may have been certified earlier, but if probative records of that certification no longer exist, ODAS cannot use the earlier certification as a basis for legal action concerning the business's certification.) After a business reaches a total of 10 years certified in the program, under the existing rule, the business is not eligible for re-certification. In addition, participation in the program during its initial creation by executive order, does not count for purposes of this limitation, which was created by rule pursuant to R.C. 123.152.

EOD developed a one-page information sheet captioned "EDGE Graduation and Participation Time Limits" to communicate details of the 10-year limitation to all certified EDGE businesses, which is attached as Exhibit A. In addition, this information is posted on the ODAS website. The Standard Operating Procedures were updated to reflect the "cumulative" time period definition.

**Recommendation Number 3:**

Based on errors identified in the Equal Opportunity Division's analysis of the 10-year eligibility restriction, conduct another internal review of the EDGE program to determine which EDGE-certified businesses are ineligible for the program based on the 10-year eligibility restriction as required by Ohio Administrative Code 123:2-16-03.

**Response**

EOD has conducted an internal review of all currently certified EDGE businesses to determine if any certified EDGE business had exceeded the 10-year cumulative time limit. As of March 1, 2019, EOD has identified 109 currently certified companies that have exceeded the 10-year cumulative EDGE participation time limit.

**Recommendation Number 4:**

Review and revise written policies and procedures to ensure that the Ohio Department of Administrative Services, Equal Opportunity Division not only collects and documents the North American Industry Classification System (NAICS) code from EDGE applicants at both the initial certification and recertification stages, but also utilizes the NAICS code to comply with the small business size standards as required by Ohio Administrative Code 123:2-16-01.

**Response**

Currently the Equal Opportunity Division collects the North American Industry Classification (NAICS) code listed on each business's federal tax returns at the time of initial certification. The Equal Opportunity Division determines if the NAICS code on the federal tax returns is correct and then issues the business either the NAICS code listed on the business's federal tax returns or the correct NAICS code as determined by EOD.

Based upon this report, DAS is reviewing its recertification process and identifying methods of strengthening that process. Once decisions have been made regarding what changes need to be made to recertification, EOD will update the SOP and its other internal documents, and the re-certification application.

**Recommendation Number 5:**

Complete an internal review of the EDGE program to determine EDGE-certified business eligibility for the program based on the small business size standards as required by Ohio Administrative Code 123:2-16-01.

**Response**

On February 15, 2019, the Equal Opportunity Division (EOD) emailed an “EDGE – Size Standard Verification” email to all currently certified EDGE businesses. A copy of the text of those messages is attached as Exhibit B. Each EDGE owner had until March 15, 2019, to provide the following information to EOD: the company’s NAICS code as listed on the most recent company business taxes, gross receipts/sales and total number of employees employed for the last three fiscal years. The Equal Opportunity Division received 532 replies. On April 5, 2019, EOD sent an additional “EDGE – Size Standard Verification” email to all certified EDGE businesses that did not reply to the email sent on February 15, 2019. EOD will continue to work to verify that currently certified EDGE businesses do not exceed the size standards, including taking action as appropriate against companies that fail to respond to requests for information.

**Recommendation Number 6:**

Based on the results of the internal reviews identified above (see recommendations #3 and #5), initiate decertification or revocation proceedings for those EDGE program participants found to be ineligible based on either the 10-year eligibility restriction or on their no longer meeting the “economically disadvantaged business” requirement as outlined in Ohio Administrative Code 123:2-16-01, 123:2-16-03, and 123:2-16-06. Report these to the Office of the Ohio Inspector General within the 60-day response.

**Response**

As indicated above, ODAS is currently reviewing the 10-year time limit. EOD notified 101 EDGE businesses that they had exceeded the 10-year limit prior to December 31, 2018. Since January 1, 2019, EOD has notified an additional 8 EDGE businesses that they had exceeded the 10-year time limit and were no longer certified. As of the date of this report, all of these businesses have been informed that the time limitation is under review, and their certifications remain valid until December 31, 2020.

As a result of its review of currently certified EDGE businesses for compliance with the NAICS size standards, EOD has identified 18 companies that appear to exceed size standards. These companies have been asked to submit information to EOD that will allow accurate application of NAICS size standards. To date, EOD has issued notices of intent to revoke certification to 8 EDGE businesses based upon its internal review of the size standards. In addition, CTL Engineering, Inc., the company mentioned in page one of the Report as appearing to exceed size standards, is no longer certified as an EDGE business. CTL Engineering, Inc.’s EDGE certification expired on March 17, 2019,

and the company did not apply for re-certification. Upon contacting the company, EOD was informed that the owner of the company no longer meets the net worth standard of the EDGE program.

**Recommendation Number 7:**

Formally notify all current EDGE program participants of both the 10-year eligibility restriction review as well as the small business size standard review to prepare local business leaders for any forthcoming corrective actions.

**Response**

On February 15, 2019, all currently certified EDGE businesses were provided with a "EDGE Graduation and Participation Time Limits" information sheet, attached as Exhibit A. Additionally, the information sheet was added to EOD web site. After DAS has completed its review of the recertification process, as discussed in its Response to Recommendation No. 4, above, all EDGE program participants will be informed of the new requirements of that process

**Recommendation Number 8:**

Formally notify all State agencies of any forthcoming corrective actions and how these actions will affect the agencies' EDGE participation usage and credit.

**Response**

Each agency was notified of the 10-year time limit during each agency's reconciliation meeting held by the Research and Reporting Unit of EOD. Additionally, the EDGE time limit information was shared with each agency's accounting personnel at the Agency Procurement Officers meeting held on March 13, 2019.

**Recommendation Number 9:**

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

**Response**

We are reviewing the systems that are in place. EOD has hired a business analyst to identify program needs and needed improvements to the software. EOD is preparing an RFP for the purpose of updating its program software. The software system will be updated to track and calculate the 10-year time limit and to install better automatic checks on the certification and re-certification systems, for example not allowing an

application to be submitted if information has not been completed or is outside of program parameters.

**Recommendation Number 10:**

Provide additional training to Ohio Department of Administrative Services, Equal Opportunity Division employees regarding EDGE program requirements and restrictions.

**Response**

EOD trained its staff regarding the 10-year time limitation and the NAICS size standards on April 8 and April 9, 2019. Once DAS's review of the program and the recertification process has concluded, there will be additional training.

We appreciate the opportunity to detail the actions that ODAS has undertaken in response to your recommendations. 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

# EDGE Graduation and Participation Time Limits

**OhioDAS**  
SERVICE · SUPPORT · SOLUTIONS  
DEPARTMENT OF ADMINISTRATIVE SERVICES

Growing Economically and Socially Underutilized Businesses in Ohio

## Background

The Encouraging Diversity, Growth and Equity (EDGE) program was created to encourage, nurture and support the growth of economically and socially underutilized businesses, to foster their development and to increase the number of qualified competitors in the marketplace. Like its federal counterpart, the U.S. Small Business Administration's (SBA) Section 8(a) program, this program provides a base of support over a set period of time that helps these businesses to compete successfully in the marketplace.

Since its inception in 2003, the EDGE program has:

- o Certified more than 4,700 businesses.
- o Increased state expenditures with EDGE-certified businesses from more than \$75 million in Fiscal Year 2004 to more than \$299 million in Fiscal Year 2017.

With this success a number of EDGE businesses are reaching the maximum 10-year time limit for program participation or they qualify as program graduates having grown their businesses over time, exceeding the net-worth or business-size threshold limits that had designated them as "economically disadvantaged" as set by the law establishing this program. As businesses graduate or reach maximum participation time for EDGE, program resources are freed up to assist more disadvantaged businesses.

## Graduation and Time-Limit Policy

### Graduation

#### For An Economically Disadvantaged Business Owner:

- The personal net worth of the economically disadvantaged business owner at the time of initial application must be less than \$250,000 and not exceed \$750,000 during any time of certification as an EDGE business.
- If a business graduates from the program because the economically disadvantaged business owner is no longer considered to be an "economically disadvantaged person," and the owner later becomes an "economically disadvantaged person" again, the owner may re-enter the program if other requirements are met. The business may re-enter the program after sitting out one year, but only for the amount of time the owner has left within the owner's 10-year time limit or until the owner's net worth again exceeds \$750,000.

#### For An Economically Disadvantaged Business:

- A business's participation in the program also will be limited if it grows beyond being a "small business" (as defined by the SBA) while in the program. Size standards represent the largest size that a business (including its subsidiaries and affiliates) may be to remain classified as a small business. A business can be determined to be a small business based on one of two criteria:
  1. the average of the gross receipts from the last three fiscal years, and/or
  2. the average number of employees during the last three fiscal years.
- In either case, the average amount of gross receipts or number of employees cannot exceed the North American Industry Classification System (NAICS) code size cap (established by the SBA). The Equal Opportunity Division (EOD) of the Ohio Department of Administrative Services assigns NAICS codes to businesses upon certification.
  - When a business applies for recertification biannually, EOD reviews the gross receipts and the number of employees from the last three fiscal years.
- If a business graduates from the EDGE program because it is no longer considered a small business, and later becomes "small" again, it may re-enter the program if all of the requirements are met. It may re-enter the program after sitting out at least one year, but only for the amount of time it has left within its 10-year time limit or until its size standards again exceed program thresholds.



OHIO DEPARTMENT OF ADMINISTRATIVE SERVICES

EQUAL OPPORTUNITY DIVISION  
BUSINESS CERTIFICATION AND COMPLIANCE UNIT

4200 SURFACE ROAD  
COLUMBUS, OHIO 43228

614-466-8380  
DAS.OHIO.GOV/EOD

# Exhibit A

## EDGE Graduation and Participation Time Limits

### EDGE ELIGIBILITY

#### Business owner:

- Economically disadvantaged
- Socially disadvantaged or business is in qualified census tract
- Own at least 51 percent of the business
- Day-to-day control
- Business operational at least one year
- Necessary licenses and permits
- U.S. citizen
- Ohio resident

#### 10-Year Time Limit

The maximum amount of time a certified business or business owner may participate in the EDGE program is 10 total years.

- Certification time begins the date a business is first certified.
- Businesses or business owners that meet the total 10-year time-period are *not* eligible to re-enter the program.
- This allows eligible businesses to continue to access resources.

#### Post-Graduation/Time Limit

State Agencies:

##### EDGE Contract Credit

- As long as an EDGE-certified business does not withdraw its certification or have its certification revoked during the life of a contract, a state agency entering into a contract with an EDGE-certified business will be granted credit toward its EDGE goal for the EDGE business's performance on the contract should the business graduate from the program or be term-limited during the term of the contract.

Businesses:

##### Minority Business Enterprise (MBE) Certification

- For those businesses that are dual certified into both the EDGE and Minority Business Enterprise (MBE) programs, this policy has no impact on their MBE certifications.

##### Resources

- Once a business graduates or is time-limited, the business could continue to be eligible for one or more of the following programs offered through the Ohio Development Services Agency:

Program	Description	Available for
<b>Minority Business Assistance Centers</b>	Provides no-cost, confidential, in-depth, one-on-one counseling for businesses that will or currently employ fewer than 500 employees. Additional services include training, e-counseling, quality-based assessments, technical assistance, loan packaging guidance, and information on federal, state and local regulations and programs.	Time-limited businesses and those who are defined as having economically disadvantaged business owners.
<b>Capital Access Program</b>	Provides a loan portfolio insurance program (similar to a loan guarantee) that enables small businesses to obtain credit to help them grow and expand their businesses.	Time-limited businesses and those who are defined as having economically disadvantaged owners.
<b>Collateral Enhancement Program (CEP)</b>	Facilitates increased lending by banks to small businesses and minority-owned businesses that need access to capital for growth or expansion.	Time-limited businesses and those who are defined as having economically disadvantaged owners.
<b>Minority Business Bonding Program</b>	Provides bid, performance and payment surety bonds to state certified minority-owned businesses that are unable to obtain bonding through standard surety companies.	Time-limited businesses and those who are defined as having economically disadvantaged owners who also are an MBE-certified business.
<b>Minority Business Direct Loan Program</b>	Provides fixed, low-interest rate loans to certified minority-owned businesses that are purchasing or improving fixed assets resulting in creating new jobs for Ohioans.	Time-limited businesses and those who are defined as having economically disadvantaged owners who also are an MBE-certified business.
<b>Procurement Technical Assistance Centers (PTAC)</b>	Matches local businesses with contract opportunities, researches past contracts, helps clients prepare bids and navigate requirements, and assists clients after winning contracts.	All



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## Exhibit A

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SERVICE · SUPPORT · SOLUTIONS  
DEPARTMENT OF ADMINISTRATIVE SERVICES

Growing  
Economically  
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## Exhibit B

Text of email sent to all EDGE certified businesses on 2/15/2019

**Subject:** EDGE – Size Standard Verification - Required

Dear EDGE Business Owner:

The Department of Administrative Services, Equal Opportunity Division (EOD) has the responsibility to ensure that Encouraging Diversity, Growth and Equity (EDGE) certified businesses continue to meet all requirements of the EDGE program.

Ohio Administrative Code 123:2-16-01(D) states, "Economically Disadvantaged Business" means a business (including its affiliates) that are at least fifty-one percent owned and controlled by a socially and economically disadvantaged person or persons and the size of the business does not exceed the definition of a "small business" as defined by the United States Small Business Administration.

To be a small business as defined by the United States Small Business Administration standards (found in 13 C.F.R. Part 121) only one main North American Industry Classification System (NAICS) Code is used to determine the company's size standard. The main North American Industry Classification System Code (the code in which the majority of the company's gross sales are generated within) as identified by EOD at the time of certification or recertification is the only code used to determine a company's size standard as identified in 13 C.F.R. Part 121.

Where the size standard is number of employees, the method for determining a business's size includes the following principles:

- The average number of employees the business used based upon numbers of employees for each of the pay periods for the preceding completed 12 calendar months;
- Part-time and temporary employees are counted the same as full-time employees; and
- If a business has not had employees for 12 months, the average number of employees is used for each of the pay periods during which it has been in business."

Please provide the company's NAICS Code, gross receipts/sales, and the total number of employees for the last three years on the form below and email the form to [stacy.cornett@das.ohio.gov](mailto:stacy.cornett@das.ohio.gov).

Where to locate the company's NAICS Code:

- a. Corporation – Form 1120 (Schedule K, Line 2a) or Form 1120S (top of the form, Box B)
- b. Limited Liability Company – Form 1120S (top of the form, Box B) or Form 1065 (top of the form, Box C)
- c. Partnership – Form 1065 (top of the form, Box C)
- d. Sole Proprietorship – Schedule C (Line A)

Please complete all section of the form below:

<b>Company Name</b>			
<b>Company FTID#</b>			
<b>Accounting Year</b>	<b>2017</b>	<b>2016</b>	<b>2015</b>
<b>NAICS Code</b>			
<b>Gross Sales</b>	\$	\$	\$
<b>Total Number of Employees</b>			

To determine if your business continues to be defined as a “small business” by U.S. Small Business Administration standards, EOD is requesting the following information no later than **March 15, 2019**.

**Note:** Failure to respond with the required information may lead to revocation of your EDGE certification pursuant to Ohio Adm. Code 123:2-16-06.

By submitting this form the business owner swears that the foregoing statements and information are true and correct. The business owner further acknowledges and understands that any misrepresentation the company’s gross receipt/sale or number of employees to obtain contracts, subcontracts, or any other benefit under section 123, 125 and 153 of the Revised Code shall be guilty of theft by deception as provided in sections 2913.02 of the Revised Code and such other provisions as may apply