

STATE OF OHIO
Executive Department

OFFICE OF THE GOVERNOR

Columbus

EXECUTIVE ORDER 2002-17T

**EDGE PROGRAM INITIATIVE
ENCOURAGING DIVERSITY GROWTH AND EQUITY (EDGE)**

WHEREAS, the Taft Administration is committed to making all state services, benefits and opportunities available without discriminating on the basis of race, color, religion, sex, national origin, disability, age or ancestry; and

WHEREAS, the State of Ohio recognizes that a significant number of developing businesses are owned by Ohio citizens who may be competitively underutilized because of their social and economic status; and

WHEREAS, the State of Ohio has a duty to secure the best available product at the lowest possible price and can best do so by assuring that as many qualified businesses as possible compete for every available contract; and

WHEREAS, the State of Ohio recognizes the need 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,

NOW THEREFORE, I, Bob Taft, Governor of the State of Ohio, by virtue of the power and authority vested in me by the constitution and the statutes of the State of Ohio, hereby order and establish the EDGE Program Initiative, a business assistance program for socially and economically disadvantaged business enterprises with the goal of Encouraging Diversity Growth and Equity in Ohio's marketplace.

Any eligible business that desires to contract with the State under this program may apply to the state for certification to be an EDGE business contractor, subcontractor, material supplier, or protégé. Certified EDGE Program participants shall be eligible for contract assistance, financial and bonding assistance, management and technical assistance and mentoring opportunities as follows:

1. From the contracts awarded by the State for the procurement of construction projects and design services under Chapter 153 of the Ohio Revised Code and the purchase of supplies and services under Chapters 123 and 125 of the Ohio

Revised Code, the director of the Department of Administrative Services shall establish agency procurement goals for contracting with EDGE Program participants based on the availability of eligible program participants by region or geographic area and standard industrial code.

A goal shall be a percentage level of participation tied to some measure of percentage of contractor availability. Goals shall be tailored to EDGE availability and individual agency procurement opportunities. Goals shall be applied at the contract level, relative to an overall dollar goal for each state agency by procurement category. Procurement categories include Construction/Architecture and Engineering, Professional Services, Goods & Services, and Information Technology Services.

2. To the extent that any agency of the State is authorized to make purchases, the agency shall establish agency procurement goals based on a percentage level of participation tied to some measure of percentage of contractor availability and eligible expenditures.
3. The Department of Administrative Services shall prescribe such conditions under which competitive sealed bids and proposals will be received and terms of the proposed purchase as it considers necessary; provided that all such conditions and terms shall be reasonable and shall not unreasonably restrict competition, and bidders may bid upon all or any item of construction, supplies or services listed in such notice. In prescribing the terms of the proposed purchase, the Department of Administrative Services may establish participation goals or a point system to assure appropriate levels of EDGE participation by focusing on the evaluation of bids and proposals.
4. The Director of Minority Affairs for the Office of the Governor shall provide oversight and policy guidance to all state agencies in the implementation of this Executive Order.
5. The Department of Administrative Services shall immediately:
 - A. Begin cross-certifying and recognizing those small business owners, minority-owned business enterprises (MBEs) and women-owned business enterprises (WBEs) that have federal disadvantaged business enterprise (DBE) 8(a) status, certified MBE status, certified historically underutilized business (HUB) status or certification under other public contract assistance programs with substantially similar eligibility criteria.
 - B. Begin designating and maintaining a list of all federally registered DBEs that are interested in doing business with the State of Ohio as an EDGE-certified participant.
 - C. Begin establishing a system of certifying Ohio small businesses that is based on a requirement that the business owner show both social and

economic disadvantage. The Department of Administrative Services shall establish Ohio guidelines that mirror the federal law, where appropriate, for determining:

- i. Economic disadvantage based on the relative wealth of the company seeking certification as well as the personal wealth of the owner(s) of the company;
- ii. Social disadvantage based on one of three ways: (1) a rebuttable presumption when the business owner shows membership in a traditionally recognized racial minority group or shows personal disadvantage due to color, ethnic origin, gender, physical disability, long-term residence in an environment isolated from the mainstream of American society, location in an area of high unemployment; or (2) by some other showing of personal disadvantage not common to most other small business persons; or (3) by business location in a qualified census tract; and
- iii. Business disadvantage based on economic and business size thresholds and eligibility criteria designed to stimulate economic development through contract awards to businesses located in qualified census tracks.

D. Establish standards to determine when a business should be graduated from eligibility for the EDGE program as a result of achieving success to such a degree that the benefits of a state-sponsored program are no longer necessary and the business can no longer be fairly considered to be disadvantaged. Businesses should also be removed after a period of time, whether or not they have graduated from the program, subject to the following:

- i. Those standards that determine success on an economic basis shall be adjusted to reflect inflation and market fluctuation;
- ii. Graduation or removal in cases of family-owned businesses should be judged on their individual merits and not be based on a previous owner/family member's business success;
- iii. A program extension of two years shall be provided even though the business has graduated, provided the owner participates in mentoring, partnering or joint venturing with a new program participant; and
- iv. A business removed for non-disciplinary reasons or graduated from the program may re-enter the program after one year, provided that it meets all eligibility requirements.

- E. Develop by January 2005 a process for evaluating and adjusting the initial agency benchmark of 5% established in section 7(E) of this Order. Determine what adjustments are necessary to tailor participation goals to EDGE contractor availability for subcontractor participation in construction contracts and contractor or subcontractor participation in other agency and DAS procurements within the parameters described in Section 1 of this Order.
- F. Establish a point or weighted system for evaluating proposal-based solicitations to ensure appropriate levels of EDGE contractor or subcontractor participation in the procurement of professional design services, information technology services and request for proposal procurements.
- G. Establish a system to disaggregate procurement data so that the data can be tracked and analyzed by each certification category to avoid internal disparity among Program participants.
- H. Establish a waiver mechanism to waive program goals or participation requirements for those companies that, despite their best-documented efforts, are unable to contract with certified EDGE participants.
- I. Establish a conciliation process to mediate complaints and to review certification appeals of EDGE Program participants.
- J. Establish a process for monitoring overall program compliance in which agency Equal Employment Opportunity officers shall be primarily responsible for the monitoring of their respective agencies.
- K. Implement, in conjunction with the Ohio Departments of Development and Transportation, an outreach and education program that includes agency training and an aggressive recruiting component to assure that all disadvantaged businesses that might be eligible to compete for Ohio's contracting and procurement dollars become certified to do so.
- L. Establish a system to assist all other cabinet-level state agencies in identifying and utilizing EDGE participants in their contracting processes, including:
 - i. A process to assist agencies in goal setting and waivers for their competitive procurements;
 - ii. The establishment of a standardized record keeping system to assist agencies in reporting and tracking their EDGE expenditures;
 - iii. The identification of data necessary for tracking and evaluating program success including, where necessary, subcontractor data;

- iv. A process for uniform data collection; and
- v. The creation of sample record keeping and data collection forms.

M. Implement a system of self-reporting, as well as periodic on-site inspections, which will ensure that businesses registered as EDGE participants are actually owned and operated by individuals who are economically and socially disadvantaged.

N. Provide to me, by December 31, 2003, and by December 31 of each year thereafter, a detailed report outlining and evaluating progress made in implementing this executive order.

6. The Ohio Department of Development shall:

A. Conduct outreach, marketing and recruitment of EDGE Program participants.

B. Provide assistance to the Department of Administrative Services, as needed, to certify new program participants and to train state agency procurement staff.

C. Provide business development services to program participants in the developmental and transitional stages of the program, including financial and bonding assistance and management and technical assistance.

D. Develop a mentor-protégé program to bring non-disadvantaged businesses into a working relationship with EDGE Program participants in a way that commercially benefits all involved.

E. Provide a report to me, by December 31, 2003, and by December 31 each year thereafter, on the progress of their assistance in the implementation of this executive order.

7. Every cabinet-level state agency shall, within the constraints of statutory authority and as otherwise provided by law:

A. Take appropriate steps to foster, support and encourage the participation of historically underutilized businesses and encourage such businesses to compete for construction contracts and the procurement of goods and services by including a participation goal for construction contracts and requests for proposals when subcontractors or sub-consultants are used.

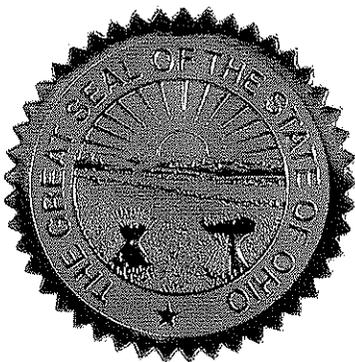
B. Review its projected annual procurements to determine, based on EDGE Program participant availability, which procurements will be designated as eligible for EDGE. Once participation goals are

established, monitor and report program compliance to the Department of Administrative Services.

- C. Examine its internal agency procurement policies, procedures and practices and remove those elements that adversely impact small and minority-owned or women-owned businesses.
- D. Examine and eliminate all unnecessary barriers to equitable participation, including, but not limited to, the following items: bonding and licensing requirements, excessive experience requirements, massive procurements (unbundling contracts when practicable), use of proprietary specifications and other procurement-related requirements.
- E. Beginning in 2003, set an initial goal that approximately 5% of eligible direct expenditures in the areas of construction, goods and services, be awarded to EDGE Program participants.
- F. Provide the Department of Administrative Services' Equal Opportunity Division with quarterly reports and annual projections on EDGE utilization.

Neither this Executive Order nor the EDGE Program created thereunder is intended to replace, modify or otherwise supersede the requirements of Ohio's Minority Business Enterprise (MBE) set-aside Program found in section 125.081 et seq. of the Revised Code.

Effective with this order, I revoke Executive Order 97-14V and all Executive Orders issued that are inconsistent with this Order.



ATTEST:

J. Kenneth Blackwell
Secretary of State

IN WITNESS WHEREOF, I have Hereunto Subscribed my name and Caused the Great Seal of the State of Ohio to be affixed at Columbus, Ohio this 20th day of December, Two Thousand and Two.

Bob Taft
Bob Taft, Governor

Filed on 12/20/02
Per Jay A. West
In the Office of the Secretary of State at Columbus, OH
J. KENNETH BLACKWELL
Secretary of State