

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



**AGENCIES: OHIO DEPARTMENT OF ADMINISTRATIVE SERVICES,
OHIO DEPARTMENT OF INSURANCE,
OHIO DEPARTMENT OF AGRICULTURE
FILE ID NO.: 2017-CA00011
DATE OF REPORT: SEPTEMBER 20, 2018**

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“Safeguarding integrity in state government”

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Randall J. Meyer
Ohio Inspector General



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF INVESTIGATION

FILE ID NUMBER: 2017-CA00011

SUBJECT NAME: Nena Bradley

POSITION: Program Administrator 3,
Ohio Department of Rehabilitation and Correction

AGENCY: Ohio Department of Administrative Services
Ohio Department of Insurance
Ohio Department of Agriculture

BASIS FOR INVESTIGATION: Inspector General Initiative

ALLEGATIONS: Improper Practices

INITIATED: March 29, 2017

DATE OF REPORT: September 20, 2018

INITIAL ALLEGATION AND COMPLAINT SUMMARY

During the course of a separate investigation, the Office of the Ohio Inspector General discovered information that Ohio Department of Rehabilitation and Correction (ODRC) Program Administrator 3 Nena Bradley was operating a personal business that provided various services to the State of Ohio. An initial review found that Bradley was the registered agent and owner of A. Joseph Business Enterprises, LTD. (AJBE). AJBE is certified under both the Minority Business Enterprise (MBE) and Encouraging Diversity, Growth and Equity (EDGE) programs. Between late March 2010 to mid-January 2017 (as of the date of this case initiation), AJBE received \$577,913.66¹ from various state agencies for the purchase of office furniture, office systems, labor, and delivery.

BACKGROUND

The Ohio Department of Administrative Services (ODAS), Equal Opportunity Division (EOD), Business Certification and Compliance Unit conducts certification of minority-owned, women-owned and socially and economically disadvantaged businesses, making them eligible to participate in the state's socially and economically disadvantaged business initiative programs, Minority Business Enterprise (MBE) and Encouraging Diversity, Growth and Equity (EDGE).

Minority Business Enterprise (MBE)

The State of Ohio's Minority Business Enterprise (MBE) program establishes a 15-percent set-aside procurement goal for state agencies, boards and commissions in awarding contracts to certified MBE businesses. The MBE program is designed to assist minority businesses in obtaining state government contracts for goods and services. Unlike the Encouraging Diversity, Growth and Equity program, the MBE program *does not* apply to construction contracts. The State of Ohio developed the MBE program because it recognized the need to encourage and support the growth of minority businesses to foster their development and increase the number of qualified competitors in the marketplace.

¹ According to Ohio Administrative Knowledge System (OAKS) voucher detail report from March 30, 2010, to January 12, 2017.

MBE Eligibility

An MBE-certified business must be owned and controlled by a U.S. citizen who is a resident of Ohio and a member of one or more of the following minority groups: Blacks or African Americans, American Indians, Hispanics or Latinos, and Asians. In addition, the following criteria must be met.

The business must:

- Have been in business for at least one year prior to applying;
- Be at least 51 percent minority-owned.

The business owner must:

- Possess requisite knowledge of the business and industry in which he or she is applying;
- Have day-to-day control over the business, exercising final authority over all aspects of daily operations, including but not limited to: operations, financial and business management, human resources and policy decisions;
- Demonstrate capability or expertise within the classifications identified for a period of one year prior to certification; and
- Possess all licenses and permits required by law to perform the scope of work within classifications requested.

Participants in the MBE program are listed in a searchable database and can compete for 15 percent of state agencies' spending budgets in a sheltered bidding process.

Encouraging Diversity, Growth and Equity (EDGE)

The State of Ohio's Encouraging Diversity, Growth and Equity (EDGE) program establishes an annual goal for state agencies, boards and commissions, as well as guidelines for state universities in awarding contracts to certified EDGE businesses. The EDGE program is designed to assist socially and economically disadvantaged businesses in obtaining state government contracts in the following areas: construction, architecture and engineering; professional services; goods and services; and information technology services. In contrast to the Minority Business Enterprise program, the EDGE program *does* apply to construction contracts. The State of Ohio developed the program because it recognizes the need to encourage

and support the growth of economically and socially disadvantaged businesses to foster their development and increase the number of qualified competitors in the marketplace.

EDGE Eligibility

An EDGE-certified business must be owned and controlled by a U.S. citizen who is a resident of Ohio. A business may qualify for EDGE certification if either (a) its owner is both socially and economically disadvantaged, or (b) the business is located in a qualified census tract and the owner is economically disadvantaged. Economic disadvantage is based primarily on the owner's personal net worth. In addition, the following criteria must be met:

The business must:

- Have been in business for at least one year prior to applying; and
- Be at least 51 percent owned by socially and economically disadvantaged individuals.

The business owner must:

- Have day-to-day control over the business, exercising final authority over all aspects of the daily operations of the business, including but not limited to operations, financial and business management, and human resources and policy decisions; and
- Possess all licenses and permits required by law to perform the scope of work within classifications requested.

Participants in the EDGE program are listed in a searchable database and may compete for contracts from state agencies, boards, commissions and universities, which must meet annual EDGE spending goals.

APPLICABLE RULES, POLICIES AND PROCEDURES

Ohio Revised Code (ORC) Chapter 125: Department of Administrative Services – Office Services

Ohio Revised Code §125.081(F) states:

Any person who intentionally misrepresents self as owning, controlling, operating, or participating in a minority business enterprise for the purpose of obtaining contracts, subcontracts, or any other benefits under this section shall be guilty of theft by deception as provided for in section 2913.02 of the Ohio Revised Code.

Ohio Administrative Code (OAC) §123:2-15 Minority Business Enterprise

Ohio Administrative Code §123:2-15-01(A)(3) states:

Persons who are members of one or more of the groups identified in paragraphs (A)(6) to (A)(9) of this rule must have actual control of the day-to-day operations of the minority business enterprise. Among the factors that shall be considered by the state equal employment opportunity coordinator in evaluating the non-minority influence are:

- (b) Is the non-minority person(s) affiliated with another business in the same or similar type of business as the applicant concern;
- (c) Does the non-minority person(s) exercise final authority over any aspect of the day-to-day operations of the applicant concern;
- (e) The relative compensation received by the non-minority person(s) as compensation for services as a consultant, director, officer or employee rendered to the applicant concern.

Ohio Administrative Code §123:2-15-01(5)(a) states:

(a) Individuals who are not members of a group listed in paragraphs (A)(6) to (A)(9) of this rule who are stockholders, officers, directors or employees of an applicant for admission to the program shall not exercise actual, ultimate control or have the authority to control any aspects of the day-to-day operations, finances, or the management decisions and management policies of the applicant business concern. The existence of control or the authority to exercise control shall be determined by the facts of each case.

Ohio Administrative Code §123:2-15-01(5)(b) states, in part:

This precludes outside employment or other business interests by the individual which conflict with the management of the firm or prevent it from achieving the objectives of its business development plan. This requirement does not preclude employment of persons who are not members of one of the groups listed in paragraphs (A)(6) to (A)(9) of this rule in the management of the applicant concern.

The Ohio Administrative Code §123:2-15-01(B)(12) states:

Application for certification as a minority business enterprise states, in part; No person who is acting as an agent or intermediary in making contracts under section 123.151 of the Revised Code will be certified as a minority business enterprise.

Ohio Administrative Code §123:2-15-01 (G) states:

Any person who intentionally misrepresents himself as owning, controlling, operating, or participating in a minority business enterprise for the purpose of obtaining contracts, subcontracts, or any other benefits under sections 123.151 and 125.081 of the Revised Code shall be guilty of theft by deception as provided in section 2913.02 of the Revised Code and such other provisions as may apply.

Ohio Administrative Code Chapter 123:2-16 EDGE Business Development Program

Ohio Administrative Code §123:2-16-06 (7) - Decertification and revocation states, in part; Determination that decertification or revocation of EDGE business enterprise's certification is in the best interest of the state. Such reasons include, but are not limited to legal findings of business fraud, business debarment by the federal government, debarment by the state of Ohio, any of its political subdivisions or any other state, or a determination that an EDGE business enterprise inappropriately transferred, assigned, or subcontracted work to a non-EDGE certified business enterprise;

The Ohio Department of Administrative Services (ODAS) Directive GS-D-12, Procurement Procedures for Supplies, Services and Information Technology policy provides guidance to state agencies in purchasing from approved vendors.

The Ohio Department of Administrative Services, through the Office of Procurement Services (OPS), awards contracts for supplies, services and information technology in excess of \$25,000 for state agencies. State agencies are required to make purchases above \$25,000 through OPS except when the need is available from a required source of supply, as described in Section II, A., or except when ODAS has delegated authority to the agency to make purchases up to \$50,000. For purchases under \$25,000, for supplies or services that are not available from required state contracts, agencies may use their

direct purchase authority to make the purchase. This purpose of this directive is to assist state agencies when exercising their direct purchasing authority.

Law requires that agencies give first consideration to certain state resources prior to making the purchase from another source. Before making any purchase, agencies must first determine if the supply or service is available from any of the following sources (in order of ranking):

1. Ohio Penal Industries (OPI)

Section 5147.07 of the Revised Code.

2. DAS Office of Procurement from Community Rehabilitation Programs (OPCRP)

Sections 125.60 through 125.6012 of the Revised Code.

3. Rehabilitation Services Commission (RSC), Bureau of Services for Visually Impaired

Sections 3304.28 through 3304.33 of the Revised Code.

4. Department of Mental Health, Office of Support Services

Section 5119.16 of the Revised Code (institutional agencies only).

5. DAS Office of State Printing

Sections 125.31 through 125.76 of the Revised Code.

6. DAS Office of Procurement Services

Sections 125.01 through 125.11, 125.17 of the Revised Code.

Agencies may purchase from these sources without dollar limitation and purchases made from these sources are not counted against an agency's cumulative annual threshold.

Waivers may be granted in certain cases.

ODAS, through the Office of Procurement Services (OPS) has established requirements for term contracts for a variety of supplies, services and information technology needs. These contracts have been established under formal competitive processes set forth in law or by the Controlling Board. The purpose of these contracts is to enable agencies to procure their needs without any further delay resulting from the competitive processes the agency must follow when using direct purchase authority. Agencies may purchase from these contracts without dollar limitation at any time during the effective life of the contract. When making a purchase from a State Term Schedule (STS) contract, agencies

are required to obtain a minimum of three quotes from various STS suppliers offering similar or like items. If the value of the purchase exceeds the maximum order limit listed in the contract, the agency is required to contact OPS for assistance in negotiating lower pricing from the supplier. Purchases made above the maximum order limit, which have not been reviewed and approved by OPS, may be considered to be invalid. Unless otherwise stated in the contract, agencies are required to use STS contracts before using their direct purchase authority. Purchases made from ODAS term contracts are not counted against an agency's cumulative annual threshold. Occasionally, if a contract supplier is unable to fulfill the needs of the agency, OPS may grant a special waiver to the agency to purchase the need from another source. The agency must not proceed with the purchase from another source until the waiver has been received. If the agency proceeds with the purchase prior to receiving the waiver and the waiver is denied, the person at the agency who authorized the purchase will be held personally liable for the purchase.

For purchases with a value of \$500 or less, the agency will obtain a minimum of two verbal quotations. For purchases above \$500, the agency will obtain a minimum of three written quotations and will maintain a record of the suppliers contacted, the quoted price and the supplier selected.

ODAS Directive GS-D-12, III. C. Minority Business Enterprise (MBE) Set Aside Competition

When using direct purchasing authority, state agencies are required to select a number of purchases, the aggregate value of which equals approximately 15 percent of their total purchases of supplies and services for the fiscal year, for competition by MBEs only. When exercising direct purchasing authority, remember to definitively mark all purchasing documents to show only MBE vendors were contacted for price quotes. Also, monitor set asides quarterly and adjust your projections and selections as necessary. Agency purchases from ODAS term contracts that have been set aside may be considered in their 15-percent goal.

INVESTIGATIVE SUMMARY

On March 24, 2017, the Office of the Ohio Inspector General, while conducting research for another investigation, discovered Ohio Department of Rehabilitation and Correction (ODRC) Program Administrator Nena Bradley's name and contact information on an MBE/EDGE vendor list published by the Ohio Department of Administrative Services (ODAS). A review of Bradley's EHOC² confirmed that the contact information displayed on the MBE/EDGE vendor list matched Nena Bradley's personal residence. Additional research indicated that Nena Bradley was the registered agent and owner of A. Joseph Business Enterprises, LTD. (AJBE). AJBE was identified as an office furniture supplier and was certified under both the MBE and EDGE programs. A basic review of state expenditures between fiscal years 2010 and March of 2017 indicated that AJBE had received approximately \$577,913 from various state agencies. Investigators completed a review of Bradley's ODRC-assigned desktop computer for evidence related to her alleged personal MBE/EDGE business, A. Joseph Business Enterprises, LTD. Investigators identified no evidence related to Bradley's personal MBE/EDGE business.

Nena M. Bradley has been a 22-year employee of the Ohio Department of Rehabilitation and Correction and was in the position of program administrator 3 at the time of this investigation. On March 12, 2004, she was married to Adam Joseph Bradley, who was an employee of The Bradley Company, a family owned and operated business selling office furniture and office systems. A basic review of state expenditures between fiscal years 2008 and 2017 indicated that The Bradley Company had also conducted business with the state; however, that business was steadily declining. Adam Bradley is also listed as a 49-percent owner of A. Joseph Business Enterprises, LTD.

On March 29, 2017, the Office of the Ohio Inspector General opened an investigation.

On March 1, 2007, articles of organization filed by Nena Bradley were certified with the Ohio Secretary of State, creating A. Joseph Business Enterprises, LTD. Also, Nena Bradley applied for and was granted participation in both the MBE and EDGE disadvantaged programs. The Ohio Business Gateway Equal Opportunity Division (EOD) Unified Application completed by

² Employee history report.

Nena Bradley to obtain the MBE and EDGE status listed her as the company majority owner with the disadvantaged categories as gender (female) and race (African American). The business description for A. Joseph Business Enterprises, LTD. was office furniture and modular system sales. The EOD Unified Application also listed the company as having one part-time employee, that being Nena Bradley, and stated she handled all aspects of the company, including; day-to-day administration, contracts/subcontracts, supervision of field operations, negotiations and execution of contracts, estimates/quotes, and purchases of major items or supplies. Nena Bradley also reported on the EOD Unified Application that A. Joseph Business Enterprises, LTD. did not subcontract any work. She reported Adam Bradley as a 49-percent owner of AJBE and that he did not own or work for any business that had a relationship with AJBE. It should be noted that the EOD Unified Onsite Review of her MBE application was conducted over the telephone, and that Nena Bradley claimed no industry-related affiliations and there were no questions addressing her status as a full-time state employee.

As previously stated, the Office of the Ohio Inspector General obtained a list of state agencies who made purchases totaling \$577,913.66 from AJBE dating back to March 30, 2010. Of the total amount, the Ohio Department of Insurance (ODI) spent \$232,581.43 with AJBE since March 16, 2016. The Ohio Department of Agriculture (AGRI) spent \$66,221.72 with AJBE since June 12, 2014, and the Ohio Treasurer of State's Office (TOS) spent \$90,457.26 with AJBE since August 12, 2010.

Ohio Department of Insurance

On July 6, 2017, the Office of the Ohio Inspector General contacted ODI Assistant Director/CIO Tina Chubb, Office of Information Technology and Security, who was listed as the contact person from ODI on all invoices from AJBE. Investigators asked Chubb to explain the process used to purchase furniture from AJBE. Chubb said ODI submitted a request to ODAS to purchase furniture for expansion of the ODI-IT department. Chubb said ODAS representatives came to ODI and mapped out what furniture would be needed for the area and together the two departments selected the furniture desired from National Office Furniture. The request indicated that ODI-IT wanted the furniture to be acquired from National Office Furniture (Hybrid gen2 Avenir modular furniture system) because they wanted the new furniture to match their existing

furniture which was acquired from National Office Furniture. ODAS collected the quotes from three interested State Term Schedule vendors: A. Joseph Business Enterprises, LTD., King Business Interiors, and The Bradley Company, all of whom could provide furniture from National Office Furniture. The Bradley Company submitted a quote in the amount of \$210,031; King Business Interiors submitted a quote for \$212,334; and AJBE submitted a quote for \$213,793. The three quotes were forwarded to ODI, and ODI-IT chose AJBE because they were the only MBE-certified vendor that bid on the project. King Business Interiors and The Bradley Company are not MBE-certified vendors.

Chubb said she never met Nena Bradley but did have email contact with her in the beginning of the bidding process. Chubb said she had face-to-face contact, and worked directly with Project Manager Denny McAndrew,³ who Nena Bradley identified as her project manager. Chubb provided all the email traffic she had from AJBE and the ODI visitor logs for the individuals who installed the furniture systems. The individuals all signed in as The Bradley Company employees. Chubb also provided the visitor logs from Lazarus⁴ security who documented The Bradley Company employees entering the building. Chubb explained that when the ODI-IT project began, the area of the expansion was still under the control of Lazarus, but that had changed and the area was currently leased by ODI. In 2016, ODI purchased \$232,581.43 worth of furniture and/or furniture systems from AJBE.

On July 13, 2017, the Office of the Ohio Inspector General interviewed ODAS Planning and Design Project Coordinator Rita Sutton-Hayes. Sutton-Hayes explained that ODI contacted her to create a plan and part sheet for the ODI-IT expansion, and solicit three bids from MBE dealers who could purchase furniture from National Office Furniture. Ohio Penal Industries (OPI) does not sell the Hybrid gen2 Avenir modular furniture system that ODI requested, so a waiver to release ODI from purchasing from OPI was obtained. Sutton-Hayes said there were only three dealers approved as State Term Schedule suppliers who could purchase the modular system from National Office Furniture: AJBE, King Business Interiors, and The Bradley Company. Sutton-Hayes said ODI chose AJBE for the MBE set-aside credit even though its bid was higher than

³ The Bradley Company website identifies Denny McAndrew and Adam Bradley as two of their employees.

⁴ The former Lazarus Company owned the building that leased space to ODI and various other agencies.

the other two companies. Since AJBE was the only certified MBE vendor who submitted a quote, the expenditure could only be designated as “MBE participation.” An agency must obtain quotes from three certified MBE vendors for an MBE expenditure to be included as part of the agency’s 15-percent MBE set-aside goal. Sutton-Hayes could not explain to investigators how MBE participation was used. Sutton-Hayes was aware that Nena Bradley was married to Adam Bradley, and that The Bradley Company completed the ODI furniture installation.

Ohio Department of Agriculture

On July 18, 2017, the Office of the Ohio Inspector General conducted an interview with Ohio Department of Agriculture (AGRI) Business Administrator Jill Patterson, whose duties included administering the budget for AGRI, ordering supplies and services, and other fiscal-related duties. Patterson explained that in 2012, AGRI needed to purchase various office system components; specifically, office space panels and desks. Patterson said she searched the ODAS website for State Term Schedule contract vendors and found The Bradley Company, who then completed the 2012 project for AGRI. Patterson said in 2014, AGRI needed another office space reconfiguration. Patterson said,

... we had a big push to meet our MBE quota, so Adam Bradley told me they do have an MBE that they can run things through and that it was his wife’s company A. Joseph, so from then on out because it was an MBE we used them probably even more because we needed that MBE credit.

Patterson believed the first time AGRI used A. Joseph Business Enterprises, LTD. (AJBE) was March 2014. Patterson said Adam Bradley was the day-to-day contact for all these purchases. Patterson said AJBE did not accept credit cards, so all work completed by AJBE was documented using a purchase order, and payments by warrant to AJBE were completed through ODAS. Patterson said AGRI did not obtain quotes from any other vendors. AGRI chose AJBE to get the MBE set-aside credit. Patterson provided to investigators copies of AJBE’s quotes and invoices to AGRI, which were originally attachments to emails sent from Adam Bradley of The Bradley Company. The Bradley Company delivered and installed the furniture or wall systems.

Financial and Banking Records

The Office of the Ohio Inspector General obtained copies of the warrants/checks from the State of Ohio to AJBE for goods and services. These checks were deposited into the AJBE account at Heartland Bank and signed by Nena Bradley.

The Office of the Inspector General obtained the banking records of the AJBE account at the Heartland Bank to complete the following analysis.

A. Joseph Business Enterprises, LTD. (AJBE)

Bank Account Analysis: January 2010 – June 2017

Investigators conducted a review of AJBE’s business bank account activity for the period of January 2010 through June 2017 and identified the following general account details:

Income:	\$1,568,276.72
Expenses:	\$1,501,467.80
Ending Balance:	\$ 66,808.92

Investigators determined that AJBE received \$1,279,112.93 or 81 percent of its income from state agencies (\$568,513.66) and state universities (\$710,599.27). Investigators also determined that AJBE sent a disproportionate amount of money to The Bradley Company (\$940,777.68, or 63 percent of AJBE’s expenses). The Bradley Company is similar to the business owned and operated by Nena Bradley. Nena Bradley’s husband, Adam Bradley, is also an employee and partial owner of The Bradley Company.

Investigators also identified several transactions between AJBE and The Bradley Company indicating AJBE might be acting as an agent or intermediary on behalf of The Bradley Company. Specifically, it appeared The Bradley Company, in order to gain the benefits provided exclusively to vendors who are certified as MBE, used AJBE as a pass-thru vendor to gain MBE set-aside dollars. The following examples illustrated this possible pass-thru scheme:

4/21/2010 – Ohio Industrial Commission pays AJBE - \$26,551.45

4/28/2010 – AJBE pays The Bradley Company - \$25,223.08

5/21/2012 – Ohio Board of Nursing pays AJBE - \$16,216.40

5/22/2012 – AJBE pays The Bradley Company - \$14,248.93

11/06/2012 – Columbus State Community College pays AJBE - \$233,471.52

11/14/2012 – AJBE pays The Bradley Company - \$230,156.69

9/17/2013 – Shawnee State University pays AJBE - \$25,525.00

10/16/2013 – AJBE pays The Bradley Company - \$23,908.24

3/13/2015 – Ohio Treasurer of State pays AJBE - \$18,801.00

3/19/2015 – AJBE pays The Bradley Company - \$15,773.00

5/22/2015 – Ohio Treasurer of State pays AJBE - \$16,232.00

6/02/2015 – AJBE pays The Bradley Company - \$15,777.09

9/11/2015 – Columbus State Community College pays AJBE - \$44,470.00

9/17/2015 – AJBE pays The Bradley Company - \$39,040.40

11/03/2015 – The Ohio State University pays AJBE - \$16,104.32

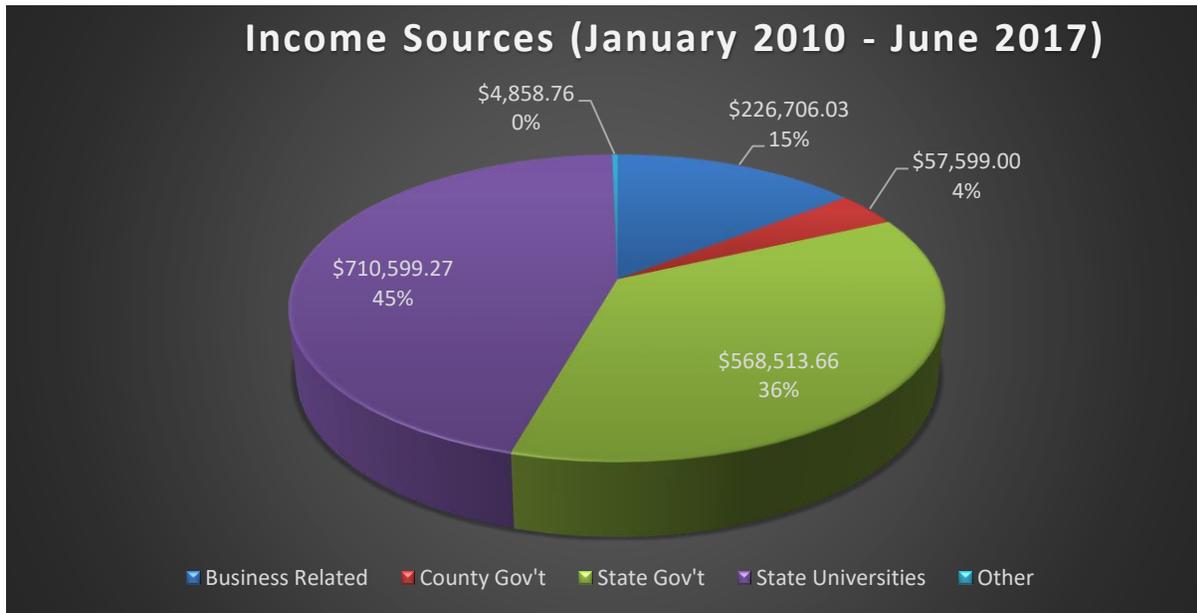
11/05/2015 – AJBE pays The Bradley Company - \$17,737.14

4/05/2016 – Ohio Dept. of Insurance pays AJBE - \$232,581.43

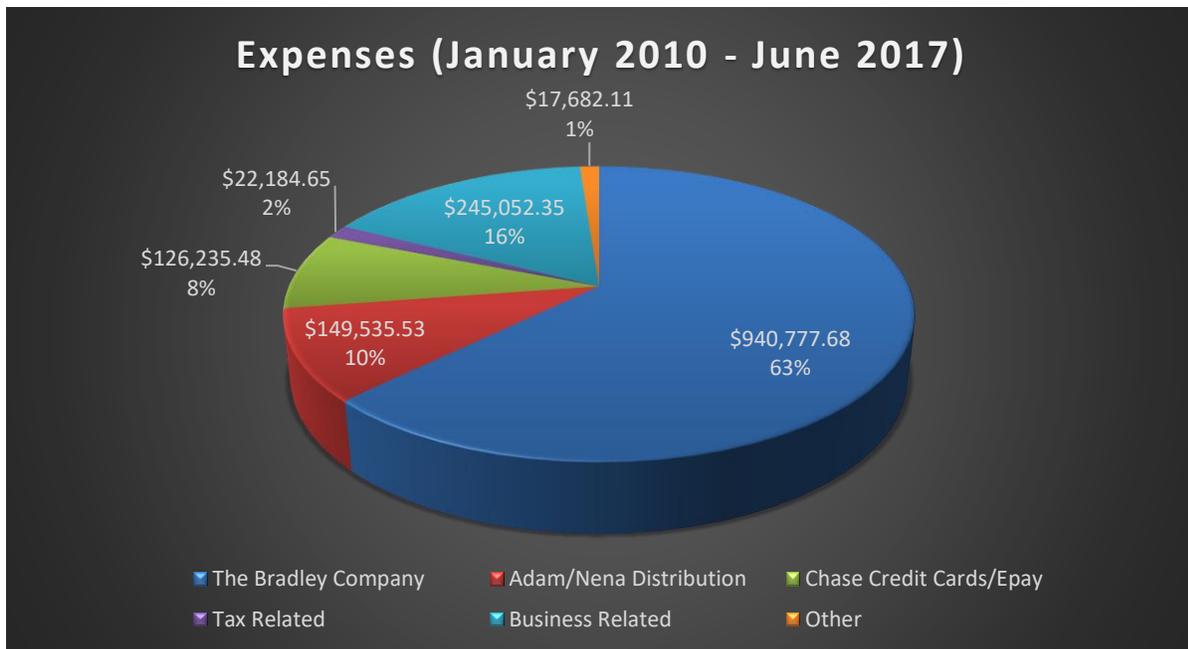
4/08/2016 – AJBE pays The Bradley Company - \$213,060.20

The following charts provide additional details regarding categories of A. Joseph Business Enterprises, LTD. income and expenses.

A. Joseph Business Enterprises, LTD. Income



A. Joseph Business Enterprises, LTD. Expenses



On February 27, 2018, investigators interviewed Nena Bradley regarding her involvement with A. Joseph Business Enterprises, LTD. Nena stated that she was employed by the Ohio

Department of Rehabilitation and Correction as a program administrator 3, and that she recruited medical personnel for the prisons. Bradley stated she had been a state employee since 1995 and at ODRC since 1999. She noted she was a full-time employee working 40 hours a week and worked from 7:00 a.m. to 3:00 p.m.

Nena said she was a 51 percent owner of A. Joseph Business Enterprises, LTD., and her husband, Adam Bradley, owned 49 percent of the business. Bradley said the business activities of A. Joseph Business Enterprises, LTD. was conducted from her home in Gahanna, Ohio, and the company sold business furniture, and subcontracted with The Bradley Company for drawing, layout and design, delivery, warehouse, and installation of modular systems. Nena said she and her husband produced all the drawings, quotes, and invoices for the business. When asked how the day-to-day business is conducted at A. Joseph Business Enterprises, LTD., Nena admitted that her husband conducted the A. Joseph Business Enterprises, LTD. business at his Bradley Company office where he was employed. Nena admitted she did not know how to use the CAD program for designing office layouts, and Adam performed those duties. When pressed, Nena admitted that the day-to-day work was completed by Adam because she worked at ODRC during the work week. She admitted that Adam sent quotes and invoices to state agencies from his computer at The Bradley Company office. Bradley repeated that she did not have any employees at A. Joseph Business Enterprises, LTD., and that her business did not occupy any dedicated office space. Investigators noted to Bradley that she had specified on her original MBE application that she did not subcontract. Bradley said she had no choice but to subcontract. Bradley admitted that she used The Bradley Company employee, Denny McAndrew, as her project manager.

Nena Bradley denied AJBE was a pass thru business, and said her involvement was limited because she was a full-time state employee. She stated that even though A. Joseph Business Enterprises, LTD. may have submitted a higher quote on a project and still received the contract, she knew it was because agencies were endeavoring to meet MBE goals. Bradley admitted that her husband was paid by both The Bradley Company and A. Joseph Business Enterprises, LTD.

On March 7, 2018, Adam Bradley was interviewed at his attorney's office regarding his involvement with A. Joseph Business Enterprises, LTD. Adam told investigators that he was a less than majority owner of The Bradley Company, which is a family-owned office furniture dealer. Adam said he was also a 49 percent owner of the A. Joseph Business Enterprises, LTD.

Adam agreed that The Bradley Company and A. Joseph Business Enterprises, LTD. worked together to complete office furniture orders. He explained that the difference between the two companies was that The Bradley Company had a brick and mortar building, warehouse, trucks, and employees, and A. Joseph Business Enterprises, LTD. did not.

When asked to explain how A. Joseph Business Enterprises, LTD. obtained contracts, Adam said when he met with customers, some would ask if he knew of any MBE vendors that could provide the same items. Regarding contracts with state agencies, Adam agreed that most of the state contracts were initiated by the state agency using the vendors listed on the State Term Schedule, and that both The Bradley Company and A. Joseph Business Enterprises, LTD. were State Term Schedule vendors.

Adam explained that A. Joseph Business Enterprises, LTD. made purchases through The Bradley Company to acquire furniture from manufacturers that it could not purchase from directly.

Adam admitted that in his role as an employee at The Bradley Company, he prepared quotes, designed projects, sent invoices to agencies, and coordinated deliveries and installations for A. Joseph Business Enterprises, LTD. contracts.

Adam acknowledged that he worked on A. Joseph Business Enterprises, LTD. contracts during the day while working at The Bradley Company. He confirmed that he sent A. Joseph Business Enterprises, LTD. quotes and invoices to state agencies from his Bradley Company office using his Bradley Company email address. Adam confirmed that he worked on the quote from A. Joseph Business Enterprises, LTD. for the large Ohio Department of Insurance contract. Adam said Denny McAndrew was a Bradley Company employee and that he (Adam) was aware of the quote McAndrew submitted on behalf of The Bradley Company for the same Ohio Department of Insurance project Adam had bid on for AJBE. Adam also acknowledged that when the Ohio Department of Agriculture (AGRI) informed him the department was seeking to use an MBE

vendor for a purchase to meet their annual MBE goal, Adam said he told AGRI he could execute the purchase through A. Joseph Business Enterprises, LTD., an MBE vendor.

During an interview on March 1, 2018, Equal Employment Opportunity Program Manager Todd McGonigle explained to investigators that the Minority Business Enterprise (MBE) program is a race-based program where state agencies are required to set aside 15 percent of their eligible budget for bidding and expenditures with certified MBEs only. Eligible budgets do not include payroll or expenditures not competitively bid. To be considered a set-aside bid in the state of Ohio, the only bids that are considered for acceptance come from certified MBE vendors. If bids from non-MBE vendors are included for consideration on a contract along with MBE vendors, the contract is not considered a set-aside contract and that contract cannot count towards the 15-percent MBE credit. McGonigle stated that agencies must obtain three bids from vendors when making purchases. To be considered a set-aside expenditure and receive MBE credit, those three bids must come from MBE vendors only.

McGonigle added that,

EOD does not determine if an agency expenditure is MBE set-aside or non-set aside (participation). There are some rules set up in OAKS^[5] i.e. if a contract is bid by GSD⁶ as a set -aside contract (only MBEs can bid on the contract) and it is then awarded to an MBE, GSD will flag the cont[r]act as a set-aside contract, then each time an agency makes a purchase using a voucher and the voucher references the P.O^[7] and the P.O references the flagged MBE set-aside contract, then the purchase is recorded as a set-aside purchase ... but if the agency gets bids from say a MBE and non MBEs and the MBE is awarded the purchase, the agency is not allowed to set the flag to MBE set-aside but may set the flag to participation (provided the awarded vendor is a MBE).

⁵ The Ohio Administrative Knowledge System (OAKS) is the state's Enterprise Resource Planning (ERP) system which provides central administrative business services such as Financial Management, Human Capital Management, Content Management, Enterprise Learning Management and Customer Relationship Management.

⁶ The General Services Division within the Ohio Department of Administrative Services performs a variety of functions, including procurement and fleet management.

⁷ Purchase Order.

McGonigle was asked to explain the difference between MBE credit and MBE participation. McGonigle stated that the term MBE participation does not exist in the law, but an agency can show a good faith effort to meet that goal by awarding the contract to the MBE vendor even though it does not count toward the agency's MBE goal. Regarding the Ohio Department of Insurance purchase from A. Joseph Business Enterprises, LTD., McGonigle said the purchase could not be considered as set-aside because no other bids were obtained from two other MBE vendors. McGonigle said the Department of Insurance should not get MBE credit for this purchase toward their department's annual goal. He was asked to produce records of the Department of Insurance's MBE use for 2016 and the Department of Agriculture from 2014-2017.

McGonigle explained there is no penalty for an agency not meeting the MBE goal. If an agency fails to meet the goal, EOD holds a reconciliation meeting with the agency to evaluate possible options to meet the goal the following year.

McGonigle was asked if an MBE is awarded a contract, can that MBE then subcontract the work or goods to a non-MBE company. McGonigle said yes; however, the MBE cannot act as an agent or accept a contract and then hand it off to another company. If this occurs, EOD may withdraw or repeal the MBE certification from the company.

McGonigle was asked to explain what the day-to-day operations of a certified MBE include. McGonigle explained that, based on the size of the company, and specifically for a small company, the owner would be expected to be in the office daily to manage the design, schedules, quotes, a line of credit, and to conduct day-to-day business. The MBE must be independent and not have undue influence from the subcontracted company to the point it effects its business.

McGonigle agreed that if he knew an MBE owner was employed as a full-time state employee, it would be a red-flag and EOD would be concerned as to how an MBE owner could conduct the day-to-day operation of his/her company and work full-time for the state.

McGonigle admitted that when granting MBE status to an applicant, EOD would evaluate only the 51 percent owner and not the 49 percent owner. McGonigle agreed that per OAC §123:2-15, one of the factors to be considered by EOD when evaluating an applicant is whether the MBE company under review is affiliated with a non-MBE company in the same or similar business as the applicant. However, that question is not part of the MBE application process. McGonigle said if it "... was not brought to our attention or we did not inquire about it, we would not be aware he was in a same or similar business."

McGonigle provided the vendor utilization analysis reports used to determine the Ohio Department of Insurance and Ohio Department of Agriculture's progress toward the MBE goal. McGonigle said,

... the figures listed on vendor utilization analysis report are retrieved from OAKS. These are figures that each agency entered into the OAKS system when making a payment. EOD only pulls the data, it does not input or own the data.

The following data reveals that the Ohio Department of Insurance and the Ohio Department of Agriculture submitted their purchases as set-aside projects to obtain MBE credit toward the 15 percent goal.

Vendor Utilization Analysis Report 2016 – Ohio Department of Insurance

U Name	Vendor Name	Total MBE Eligible	Total MBE Set Aside	MBE Non-Set Aside Expenditures	Total MBE Expenditures
Dept of Insurance	A. JOSEPH BUSINESS ENTE	\$740.65	\$0.00	\$0.00	\$0.00
Dept of Insurance	A. JOSEPH BUSINESS ENTERPRISES	\$7,705.17	\$7,705.17	\$0.00	\$7,705.17
Dept of Insurance	A. JOSEPH BUSINESS ENTERPRISES	\$17,253.04	\$17,253.04	\$0.00	\$17,253.04
Dept of Insurance	A. JOSEPH BUSINESS ENTERPRISES	\$207,623.22	\$207,623.22	\$0.00	\$207,623.22

Vendor Utilization Analysis Report 2017 – Ohio Department of Agriculture

BU Name	Vendor Name	Total MBE Eligible	Total MBE Set Aside	MBE Non-Set Aside Expenditures	Total MBE Expenditures
Dept of Agriculture	A. JOSEPH BUSINESS ENTERPRISES	\$2,670.00	\$0.00	\$0.00	\$0.00
Dept of Agriculture	A. JOSEPH BUSINESS ENTERPRISES	\$127.62	\$127.62	\$0.00	\$127.62
Dept of Agriculture	A. JOSEPH BUSINESS ENTERPRISES	\$437.78	\$437.78	\$0.00	\$437.78

Vendor Utilization Analysis Report 2017 – Ohio Department of Agriculture Continued:

BU Name	Vendor Name	Total MBE Eligible	Total MBE Set Aside	MBE Non-Set Aside Expenditures	Total MBE Expenditures
Dept of Agriculture	A. JOSEPH BUSINESS ENTERPRISES	\$611.35	\$611.35	\$0.00	\$611.35
Dept of Agriculture	A. JOSEPH BUSINESS ENTERPRISES	\$2,097.15	\$2,097.15	\$0.00	\$2,097.15
Dept of Agriculture	A. JOSEPH BUSINESS ENTERPRISES	\$19,818.56	\$0.00	\$0.00	\$0.00
Dept of Agriculture	A. JOSEPH BUSINESS ENTE	\$1,100.00	\$1,100.00	\$0.00	\$1,100.00
Dept of Agriculture	A. JOSEPH BUSINESS ENTE	\$502.56	\$502.56	\$0.00	\$502.56

Vendor Utilization Analysis Report 2016 – Ohio Department of Agriculture

BU Name	Vendor Name	Total MBE Eligible	Total MBE Set Aside	MBE Non-Set Aside Expenditures	Total MBE Expenditures
Dept of Agriculture	A. JOSEPH BUSINESS ENTERPRISES	\$1,087.67	\$1,087.67	\$0.00	\$1,087.67
Dept of Agriculture	A. JOSEPH BUSINESS ENTERPRISES	\$1,397.43	\$1,397.43	\$0.00	\$1,397.43
Dept of Agriculture	A. JOSEPH BUSINESS ENTERPRISES	\$6,791.20	\$6,791.20	\$0.00	\$6,791.20
Dept of Agriculture	A. JOSEPH BUSINESS ENTERPRISES	\$7,366.00	\$7,366.00	\$0.00	\$7,366.00
Dept of Agriculture	A. JOSEPH BUSINESS ENTERPRISES	\$42.57	\$42.57	\$42.57	\$42.57

Vendor Utilization Analysis Report 2015 – Ohio Department of Agriculture

BU Name	Vendor Name	Total MBE Eligible	Total MBE Set Aside	MBE Non-Set Aside Expenditures	Total MBE Expenditures
Dept of Agriculture	A. JOSEPH BUSINESS ENTERPRISES	\$2,441.60	\$2,441.60	\$0.00	\$2,441.60
Dept of Agriculture	A. JOSEPH BUSINESS ENTERPRISES	\$6,207.30	\$6,207.30	\$0.00	\$6,207.30
Dept of Agriculture	A. JOSEPH BUSINESS ENTERPRISES	\$319.25	\$319.25	\$0.00	\$319.25
Dept of Agriculture	A. JOSEPH BUSINESS ENTERPRISES	\$1,142.48	\$1,142.48	\$0.00	\$1,142.48

Vendor Utilization Analysis Report 2014 – Ohio Department of Agriculture

BU Name	Vendor Name	Total MBE Eligible	Total MBE Set Aside	MBE Non-Set Aside Expenditures	Total MBE Expenditures
Dept of Agriculture	A. JOSEPH BUSINESS ENTERPRISES	\$10,311.96	\$10,311.96	\$0.00	\$10,311.96
Dept of Agriculture	A. JOSEPH BUSINESS ENTERPRISES	\$3,352.00	\$3,352.00	\$0.00	\$3,352.00

CONCLUSION

The Ohio Department of Insurance (ODI) requested the Ohio Department of Administrative Services (ODAS) obtain three quotes from Minority Business Enterprise (MBE) vendors for ODI furniture needs. ODAS provided the Ohio Department of Insurance with quotes from three

vendors, but only one quote was obtained from an MBE-certified vendor. The Ohio Department of Insurance was told that because the three quotes included non-MBE vendors, this project could not be a set-aside project to count toward ODI's MBE credit, but it would count toward MBE participation. The Department of Insurance chose A. Joseph Business Enterprises, LTD. because of its MBE status, even though they were the highest of the three quotes obtained. The Department of Insurance spent \$3,762 more on the furniture project than if they would have selected the lowest quote from The Bradley Company, who in fact purchased and installed the furniture. The Department of Insurance then improperly claimed the purchase from A. Joseph Business Enterprises, LTD. was a set-aside project and obtained credit toward the department's 15-percent MBE goal.

Accordingly, the Office of the Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.

The Department of Administrative Services, Equal Opportunity Division failed to adequately evaluate the A. Joseph Business Enterprises, LTD. MBE application. A. Joseph Business Enterprises, LTD. had multiple renewals, increasing income but no employees or equipment, and the owner was a full-time state employee who had an affiliation with a same or similar non-MBE business. EOD did not question Nena Bradley's full-time employment or ask if she or Adam Bradley had any affiliation with a same or similar business. The EOD's MBE application process does not inquire nor address whether applicants have any other employment.

Accordingly, the Office of the Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.

The Ohio Department of Agriculture failed to obtain three quotes, violating ODAS Directive GS D 12, and officials were aware Adam Bradley was executing purchases through A. Joseph Business Enterprises, LTD. to obtain MBE credit.

Accordingly, the Office of the Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.

The Ohio Department of Agriculture then improperly claimed the purchase through A. Joseph Business Enterprises, LTD. as a set-aside project to gain credit toward the 15 percent MBE goal.

Accordingly, the Office of the Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.

Nena Bradley did not meet the definition of an MBE owner who had day-to-day control of her business, as she was working full time at ODRC. Additionally, Bradley reported on her original MBE application that her business, A. Joseph Business Enterprises, LTD., did not subcontract. However, Bradley allowed her husband's non-MBE business, The Bradley Company, to order materials, act as project manager, and install materials. Nena Bradley received payment from state agency contracts, but The Bradley Company performed the work.

Accordingly, the Office of the Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.

The pressure placed on agencies to meet their MBE utilization goals resulted in agencies wasting funds by spending more than necessary and falsely reporting MBE expenditures.

RECOMMENDATION(S)

The Office of the Ohio Inspector General makes the following recommendations and asks the directors of the Ohio Department of Administrative Services, Ohio Department of Insurance and Ohio Department of Agriculture to respond within 60 days with a plan detailing how the recommendations will be implemented. The departments should:

Ohio Department of Administrative Services

1. Develop and conduct refresher training for all state fiscal and procurement personnel regarding the specific requirements of the MBE program, which includes stressing that MBE set-aside credit can only be earned when all three quotes are taken from only qualified MBE vendors.

2. The ODAS Equal Opportunity Division should require state agencies provide proof of set-aside purchases before counting those purchases toward the MBE goal.
3. Implement a rule change to add "Commercially Useful Function" criteria to the MBE certification requirements contained in Ohio Administrative Code §123:2-15. This language is already applicable to state EDGE certification through Ohio Administrative Code §123:2-16-15.
4. Implement a more thorough review process of applications for MBE certification, including on-site reviews and stronger affiliated business reviews, to remove the potential of pass-thru businesses receiving MBE certification.
5. Develop and implement employment-related questions for MBE applications and require applicants to certify their employment status. Questions should include, but are not limited to:
 - a. Is the minority applicant(s) currently employed outside of the minority business?
If yes, full-time or part-time?
If applicable, are any non-minority applicant(s) currently employed outside of the minority business? If yes, full-time or part-time?
6. Review the conduct of A. Joseph Business Enterprises, LTD. and Nena Bradley to determine if debarment is warranted pursuant to Ohio Revised Code §125.25.

Ohio Department of Insurance

7. The Ohio Department of Insurance should assure compliance with procurement policy established by the Ohio Department of Administrative Services and not falsely claim purchases as MBE set-aside expenditures when those purchases do not meet the set-aside criteria.

Ohio Department of Agriculture

8. The Ohio Department of Agriculture should follow ODAS policy on obtaining a minimum of three bids for purchases over \$500 and should not falsely claim purchases as MBE set-aside expenditures when those purchases do not meet the set-aside criteria.

REFERRALS

The Office of the Ohio Inspector General has referred this report of investigation to the Franklin County Prosecutor for consideration.



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

NAME OF REPORT:

**Ohio Department of Administrative Services,
Ohio Department of Insurance,
Ohio Department of Agriculture**

FILE ID #: 2017-CA00011

KEEPER OF RECORDS CERTIFICATION

This is a true and correct copy of the report which is required to be prepared by the Office of the Ohio Inspector General pursuant to Section 121.42 of the Ohio Revised Code.

**Jill Jones
KEEPER OF RECORDS**

**CERTIFIED
September 20, 2018**

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