

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



AGENCY: OHIO DEPARTMENT OF TRANSPORTATION
FILE ID NO.: 2018-CA00022
DATE OF REPORT: OCTOBER 24, 2019

The Office of the Ohio Inspector General ... The State Watchdog

“Safeguarding integrity in state government”

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Randall J. Meyer
Ohio Inspector General



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REPORT OF INVESTIGATION

FILE ID NUMBER: 2018-CA00022

SUBJECT NAME/POSITION: Tom Pannett
Contract Sale Administrator,
ODOT Division of Construction Management

John Wooldridge
Owner, Excenture Business Solutions, LLC
Minority Business Enterprise (MBE),
State of Ohio Contractor

AGENCY: Ohio Department of Transportation (ODOT)

BASIS FOR INVESTIGATION: Complaint

ALLEGATIONS: Steering State Contracts;
Abuse of Office/Position;
Improper Practices.

INITIATED: April 12, 2018

DATE OF REPORT: October 24, 2019

INITIAL ALLEGATION AND COMPLAINT SUMMARY

On March 30, 2018, the Office of the Ohio Inspector General received an anonymous complaint from an alleged worker at J.T. Dillard, LLC. reporting unfair practices involving Excenture Business Solutions, LLC. The complaint stated that Excenture Business Solutions did not meet the current program requirements for providing services to the Ohio Department of Transportation (ODOT) by failing to have an office or warehouse location. Investigators determined that Excenture Business Solutions, LLC. is designated as an Ohio Minority Business Enterprise.

The complaint further alleged that Excenture Business Solutions appeared to be receiving special treatment from the ODOT Division of Opportunity, Diversity, and Inclusion (DODI) staff because of the company's involvement with a Civil Rights Symposium administered by DODI. Excenture Business Solutions was further alleged to be informing vendors that, "(J.T. Dillard) don't pay our bills and ODOT has to help collect." Because of this possible issue with J.T. Dillard, ODOT Division of Construction Management Contract Sale Administrator Thomas Pannett was reportedly instructing vendors to contact and bid their ODOT jobs through Excenture Business Solutions.

BACKGROUND

Ohio Department of Transportation

The Ohio Department of Transportation (ODOT) is responsible for planning, building, inspecting and maintaining a safe, efficient, and accessible transportation system that integrates Ohio highways, rail systems, aviation and water networks. The department also helps coordinate and develop Ohio's public transportation and aviation programs which include public transit systems, mobility management program grantees, specialized transportation programs and other public-use airports and heliports.¹

¹ Source: Biennial budget documents.

Minority Business Enterprises (MBE)²

The State of Ohio's Minority Business Enterprise program establishes a 15% 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.

MBE Eligibility Criteria

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; and be at least 51 percent minority-owned; and
- 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;
- possess all licenses and permits required by law to perform the scope of work within the classifications requested.

ODOT Procurement Procedures

ODOT has purchasing authority granted through Ohio Revised Code (ORC) Chapter 5513 and general state purchasing laws found under ORC Chapter 9 and Ohio Department of Administrative Services (ODAS) regulations in ORC Chapters 125 and 127.

² <https://das.ohio.gov/Divisions/Equal-Opportunity/Business-Certification/Minority-Business-Enterprise-MBE-Program>

The ODOT Division of Construction Management procures products and services by issuing contracts (low bid), requests for proposals (value-based award with a price component in the selection process), and invitations to bid (low bid). The Division of Construction Management submits a procurement opportunity for the same or similar items and designates them non-MBE or MBE only. MBE procurements differ in that they are limited to only MBE companies to provide specific opportunities for those bidders, as directed by the Department of Administrative Services.

ODOT receives sealed MBE bids through the mail or by bidders physically placing the bids in a locked box located at the ODOT Central Office during the bidding process. The bids are opened at 2:00 p.m. on Thursdays by ODOT Division of Construction Management Senior Sourcing Analyst James Schurch, or ODOT Division of Construction Management Sourcing Supervisor Robert Rounds.

MBE Vendors

J.T. Dillard, LLC. (dba Zaymat Distributors)

J.T Dillard is a limited liability company owned by Terrell Dillard and registered with the Ohio Secretary of State's Office in 2004. J.T. Dillard is a certified MBE through the Ohio Department of Administrative Services Equal Opportunity Division (ODAS EOD) which lists the business as a "Full service industrial, safety and construction supply business and full-service fuel/lubricant distribution company."

Excenture Business Solutions, LLC.

Excenture Business Solutions is a limited liability company owned by John Wooldridge and registered with the Ohio Secretary of State's Office in 2009. Excenture Business Solutions is a certified MBE through the Ohio Department of Administrative Services Equal Opportunity Division (ODAS EOD) which lists the business as being,

... engaged in business development consulting, with a focus on business strategy, structure and implementation. Excenture also engages in the sale and distribution of corrugated, steel, paper print, wood manufactured, energy efficient lighting, highway signage, hydraulic powered systems, snow plow, wetting system products.

RELEVANT POLICIES AND FORMS

ODOT's *Purchasing Ethics and Vendor Visit Policy No.: 15-009(P)* ([Exhibit 1](#)) requires employees to perform their daily activities in a professional and responsible manner to maintain the public trust. Employees must avoid any "appearance or perception of impropriety." Employees who violate the purchasing statutes or rules, ethics laws, Executive Order(s) or departmental policies will be subject to any penalties set forth by law, as well as, subject to disciplinary action up to and including termination of employment. Furthermore, the policy identifies specific responsibilities for both ODOT employees and vendors to include but not limited to:

A. ODOT Employee Responsibilities:

1. An employee may not participate in or receive an unannounced visit from a vendor.
2. All vendor visits must be scheduled in advance and by appointment only.
3. All visits must be formally documented through the use of a sign-in/sign-out log.
5. Vendors shall be escorted by an ODOT employee during their visit and throughout the facility.
6. Employees who violate this policy may be subject to discipline.
7. Cold calling is a method of marketing a service or product by calling prospective clients without an introduction, to determine if the potential client has a need for the caller's product. Cold calling may provide a legitimate source of information for ODOT. However, cold calls may become disrupting or inappropriate and therefore, should be brief, and terminated as soon as possible. ODOT employees should encourage the caller to forward any pertinent literature for consideration. ODOT employees are not expected to return or to accept repeated cold calls from a vendor.

B. Vendor responsibilities:

All vendors who are actively doing business with or seeking to do business with the State and/or with ODOT are expected to perform their business activities in a professional manner and avoid any "perceptions of impropriety." Vendors will be

responsible to review and become familiar with the ethics laws of the state of Ohio. Any vendor who violates Ohio's ethics laws or any executive order or ODOT policy will be subject to legal penalties up to and including debarment. ODOT utilizes a variety of methods for establishing contracts for supplies and services which include: competitive sealed bidding, competitive sealed proposals, direct purchases, reverse auction, multiple award contracts and request for quotes. Processes for implementing these methods have been developed to ensure fair and equal treatment of all vendors participating in the purchasing activity. Any vendor that attempts to influence the evaluation and/or award of a contract either directly or through an outside agent or representative will be disqualified and will not be able to participate in the purchasing activity. In addition, a vendor who attempts to influence an evaluation or award will be subject to penalties set forth by law up to and including debarment from doing business with ODOT and/or the state of Ohio.

Invitation to Bid (ITB) Packet

Investigators reviewed multiple ITB packets provided by ODOT to prospective vendors and identified the following excerpts as relevant terms and conditions in the ITB instructions:

TERMS AND CONDITIONS FOR SUBMITTING EXCEL PRICING FILE IN BID PACKAGE

SUBMISSION OF EXCEL PRICING FILE: Bidders should submit both a media device with the completed electronic Excel pricing file (.xls) and a hard copy print out of the completed Excel file in their submitted bid package. The media device should be marked with the bidder's name and the Invitation to Bid number.

“Media Device”- Compact Disc (CD), DVD (Digital Versatile Disc), or Flash Drive
Failure to submit this media device with a completed Excel price sheet from the Department's Microsoft Excel file and the hard copy printout of the completed Excel price sheet may result in a bid being deemed non-responsive by the Department.

DESCRIPTIVE LITERATURE: Bidders may electronically, on their submitted media device, provide any descriptive literature (e.g., brochures, spec/cut sheets, drawings, MSDS, etc.) regarding the products and/or services offered by the bidder. As this literature may be publically posted for viewing by purchasers, bidders must not submit any literature electronically in which they consider to be a trade secret, proprietary, or confidential in anyway.

INSTRUCTIONS, TERMS AND CONDITIONS FOR BIDDING

WHAT NEEDS INCLUDED IN BID PACKAGE: Submitted bid packages should include, at a minimum, a completed Signature Page, a hard copy print out of this entire invitation to bid document, media device with a completed Excel pricing page, hard copy of the completed Excel pricing page, and all necessary supportive documentation, forms, and any other information required herein. The Department may deem a bid non-responsive for failure to submit any of the documents requested above.

MODIFICATION OF SUBMITTED BIDS PRIOR TO PUBLIC BID OPENING: A bidder may request to modify their bid response prior to the scheduled date and time set for the public bid opening (i.e., bid submission deadline). To modify a bid response, the bidder must provide an alternate, complete bid package containing all required forms and necessary documents. The alternate bid package must be marked somewhere on the outer packaging as “REVISED”. Purchasing Services will not return the original bid package to the bidder. The original bid package will be kept in the contract file. In order to protect the integrity of the bidding process, bids shall not be prepared on the premises of ODOT. Any bid which is prepared on the premises of ODOT may be immediately disqualified and receive no further consideration for award.

SIGNATURE PAGE

This Signature Page must be completed and submitted with a Bidder’s sealed bid package to serve as acknowledgement to the Department that the Bidder understands and will comply with all terms, conditions, and requirements in submitting a bid (offer) for the above-referenced Invitation to Bid.

Bids Check Sheet ([Exhibit 2](#))

Investigators discovered some ITB packets submitted to ODOT contained bid check sheets. The check sheet is used by ODOT employees to ensure the packets contain the required documents outlined in the ITB.

INVESTIGATIVE SUMMARY

Investigators for the Office of the Ohio Inspector General conducted interviews, reviewed emails, invitations to bid, and other records maintained by ODOT to determine the validity of the allegations. On September 19, 2018, investigators contacted the owner of J.T. Dillard, Terrell Dillard, to obtain clarification on the complaint. Dillard stated he was unaware of any complaints filed on behalf of his company and that any complaints would have required his approval. Dillard stated he would check with his staff on the matter, and then respond back with a phone call to the investigators. After failing to receive a call back, investigators made several unsuccessful attempts to contact Dillard again.

Requirements to Service ODOT

The anonymous complaint received by the Office of the Ohio Inspector General stated, “Excenture doesn’t meet the current requirements to be able to service ODOT, they don’t have office, or warehouse, which is a requirement.” Investigators reviewed the Ohio Department of Administrative Services (ODAS) website for the operation and eligibility requirements for MBE businesses and determined that an office or warehouse is not required for an MBE certification. Investigators found ODAS determined Excenture Business Solutions met the criteria for being an MBE according to ODAS requirements. Therefore, Excenture Business Solutions could conduct business with ODOT as an MBE.

Special Treatment: Civil Rights Symposium

On May 31, 2018, investigators spoke to ODOT Division of Opportunity, Diversity & Inclusion (DODI) Deputy Director Lauren Purdy. Prior to this position, Purdy was the ODOT Division of Construction Management contract sale administrator. Purdy told investigators that John Wooldridge was contacted by ODOT DODI to be a speaker at the 2018 Civil Rights

Symposium³ because he fit the athletic theme of the symposium since he played football at The Ohio State University.

Investigators contacted ODOT DODI and requested a copy of all sponsors and their donations to the symposium. Investigators found neither Excenture Business Solutions nor John Wooldridge made any donations to the symposium. Furthermore, due to lack of supporting documentation within the complaint, investigators were unable to substantiate the allegation that Excenture Business Solutions was receiving special treatment by DODI due to John Wooldridge's speaking engagement at the symposium.

Special Treatment: Hunting Trip

On May 23, 2018, investigators spoke to ODOT Division of Construction Management Contract Sale Administrator Thomas Pannett, who acknowledged he was familiar with the owner of Excenture Business Solutions, John Wooldridge. Pannett stated Wooldridge was "very tight with the director [Jerry Wray] of ODOT" and noted that Wooldridge came in monthly for bid openings and would remain afterwards and chat.

In a follow up conversation with Pannett on May 24, 2018, Pannett stated,

I want to make sure you heard it from me. I do know John [Wooldridge] and I did invite him on a hunting trip last year ... I have my receipts if you want to see that I paid for it myself. He brought his brothers who are all dudes from the Akron area. We did go hunting last year one time together and I'll probably invite him again this year. I make sure I pay for everything myself. It's my trip. I've done it now for the last 7 years in a row.

Pannett told investigators that the hunting trips are held at the Elkhorn Lake Hunt Club in Bucyrus, Ohio, and the cost is \$225 per person. Pannett commented, "Can you be friends with

³ Ohio's Civil Rights Symposium for ODOT explores the value that diversity and inclusion bring to both the industry and the state. During this two-day event, leaders from business, government, and academia held discussions on issues related to contracting, business development, regulatory compliance, and the future of transportation. <http://www.dot.state.oh.us/ODOTCivilRights/Pages/default.aspx>

vendors? I don't know. I don't know that you'd say we are friends. I've never been to his house or anything."

During a March 21, 2019, interview with John Wooldridge, the owner of Excenture Business Solutions, investigators asked Wooldridge if he had ever socialized outside of work with Pannett. Wooldridge stated the only time he had socialized with Pannett outside of work was the previous year when Pannett invited him to his annual pheasant hunting trip. Wooldridge did not attend that year but accepted an invitation to attend the following year along with Wooldridge's brothers. Wooldridge stated he did not receive or give anything of value to Pannett, and noted that everyone attending paid their own fees.

On May 25, 2018, investigators spoke with Sam Bellew, the owner of Elkhorn Lake Hunt Club. Bellew checked his records and confirmed that Pannett paid his own fee and did not pay for Wooldridge or his brothers.

Special Treatment: Bill Collection

Investigators asked Pannett if he had heard of any issues with the MBE company, J.T. Dillard, not paying their bills. Pannett replied, "Yes. We do have problems with them." Pannett stated in October 2017, he forwarded an email he received from Swenson Products to DODI in which Swenson complained of having problems receiving payment from J.T. Dillard.

Investigators asked Pannett if he knew whether Excenture Business Solutions would be aware that J.T. Dillard was having issues paying bills. Pannett stated, "People talk," but he could not remember if he mentioned the matter to John Wooldridge. Investigators requested Pannett send them any emails he had related to J.T. Dillard paying or not paying bills. Pannett subsequently complied and sent investigators an email received from Swenson Products complaining that Zaymat's (J.T. Dillard) account was past due more than 120 days, and requesting to change its MBE representative for ITB #865.

Investigators asked Pannett if there was a process in place for those who complain that they are not being paid. Pannett stated, "No. There is not." Pannett clarified that he could not recall

there being any language in the ITB purchasing contracts that covers contract disputes or resolution. However, Pannett stated that in other contracts there is a formal process.

During his March 21, 2019, interview, John Wooldridge told investigators it was common knowledge J.T. Dillard was not paying its bills. Wooldridge stated it had been reported to him by at least three vendors; Swenson, Roadsafe, and Pengwyn. Wooldridge stated Tom Pannett did not inform him of the situation, but that he was told by ODOT DODI Deputy Director 2 Terry Bolden that J.T. Dillard was having problems paying its bills. Investigators asked Wooldridge if he had ever received any business as a result of referrals from ODOT personnel. Wooldridge stated, "... I can't sit here and pinpoint that a company has said hey John I'm calling you because ODOT told me to."

During an April 2, 2019, interview, investigators asked Bolden if he recalled informing Wooldridge that J.T. Dillard was having problems paying its bills. Bolden stated he did not recall having that conversation, but if Wooldridge mentioned it, "Maybe to my detriment, I did acknowledge it, unfortunately."

Special Treatment: Vendor Visits

ODOT Purchasing Ethics and Vendor Visit Policy No.: 15-009(P) states employees may not receive unannounced visits from vendors, and in fact, visits must be scheduled in advance and by appointment only. Also according to this policy, vendors are required to be escorted by an ODOT employee during their visit and throughout the facility.

During an interview on September 12, 2018, investigators asked ODOT Senior Sourcing Analyst James Schurch about Excenture Business Solutions and John Wooldridge. Schurch indicated Wooldridge had a bit of a celebrity status at ODOT. Schurch stated Wooldridge was known to ask for favors "with locating information." Investigators asked Schurch to describe the relationship between Pannett and Wooldridge. Schurch answered, "Changing." Schurch stated,

They were good friends. I mean whenever John would be in the building he'd come down and sit in Tom's office. Now with some of the things that are going on that [the

Ohio Inspector General's Office] is questioning, Tom [Pannett] just doesn't have the amount of time that he did to spend with him [Wooldridge].

Schurch was asked whether this change occurred since the time investigators began asking about some of the contracts. Schurch answered, "Probably so." Schurch was asked what made him believe Pannett and Wooldridge were good friends. Schurch replied, "Most people from outside of ODOT made an appointment to come to Tom's office. John could pretty much just knock on the door and show up, come in, and sit down."

During his interview on March 21, 2019, John Wooldridge denied that he just walked to Pannett's office to say hello. Wooldridge stated he was required to call ODOT first to see if Pannett was in his office.

During a January 22, 2019, interview with Pannett, investigators asked him if Wooldridge just showed up at his office unannounced. Pannett stated, "No." Pannett confirmed that ODOT policy prohibited vendors from making unannounced office visits. Pannett told investigators, however, that theoretically there was nothing preventing vendors who arrived for bid openings and leave the area to use the restroom from heading to Pannett's office unannounced instead of returning to the bid opening area.

During an April 2, 2019, interview, investigators asked Bolden if he received unannounced visits from Wooldridge. Bolden said that at times Wooldridge would check in with the front desk at ODOT and other times Wooldridge would just knock on his door without checking in or making an appointment first.

Vendor Referrals

On May 23, 2018, investigators asked Pannett if he had instructed any vendors to call Excenture Business Solutions and bid through them. Pannett stated, "... I can't remember doing ... saying that." In a subsequent interview on January 22, 2019, Pannett told investigators he received a

call from a frustrated supplier⁴ claiming the supplier was losing business because J.T. Dillard/Zaymat was not communicating with the supplier and wasn't selling the supplier's product. Pannett explained the supplier requested he do something about the problem and that he "felt very frustrated" because he did not know whether he could do anything for the supplier.

A few months later, the supplier again called Pannett still frustrated with the unresponsiveness of J.T. Dillard/Zaymat. Pannett stated the supplier asked for the name of a reliable MBE. Pannett stated he instructed the supplier to call John Wooldridge, because Wooldridge was someone wanting to do a good job, was responsive to ODOT, and provided a good product. Pannett stated he sent an email to Wooldridge to give him a heads up that the supplier would be calling and to make sure the connection was made.

Investigators asked Pannett about the list of MBEs available on the ODAS website whereby the supplier could have picked a vendor on his own. Pannett stated he subsequently became aware of the ODAS list after the fact. Investigators spoke to ODAS EOD Business Certification and Compliance Unit Equal Employment Opportunity Program Manager Todd McGonigle. McGonigle was unable to recall the year that ODAS began listing certified MBE companies on their webpage. However, McGonigle commented, "... we have been doing it for well over 15 years."

Pannett was asked why he chose Excenture Business Solutions to recommend to the supplier rather than all the other MBE companies who did not have problems paying their bills or being responsive to vendors. Pannett stated,

Because he asked me for someone, he didn't want to just give a random name. He said someone that seems to be responsive and responsible and after talking to John (Wooldridge), he seemed to be responsive and interested in trying to do a good job for the department (ODOT).

⁴ Suppliers provide product to vendors who in turn sell the product to ODOT. ODOT pays the vendor who in turn pays the supplier.

Pannett told investigators that no other MBEs came to mind when he spoke to the supplier, and he didn't intend to spend much time on the issue; and in fact, Pannett said he didn't respond to the supplier the first time he was contacted, and the supplier had to call back.

Investigators reviewed Pannett's ODOT email and found on June 7, 2017, Pannett forwarded contact information for John Wooldridge to an individual at New Enterprise Stone & Lime (NESL). Pannett explained to investigators NESL contacted him and asked Pannett to recommend an MBE company. In response, Pannett recommended Excenture Business Solutions. Investigators contacted NESL and were advised their distributor in Ohio did not have an MBE in order to sell NESL equipment in Ohio. NESL stated they called ODOT and asked for the name of an MBE company their distributor (Roadsafe) could use to sell their product in Ohio. Pannett gave them the company name "Excelsior (Excenture) Business Solutions."

Investigators reviewed Pannett's emails and observed on June 27, 2018, Pannett sent an email to John Wooldridge stating, "I'm passing another [emphasis added] business opportunity your way. Expect a call from Jay Smith." Investigators noted the use of the word "another" implied Pannett had previously provided other referrals to Wooldridge.

During a July 26, 2018, interview with former ODOT Division of Construction Management Sourcing Supervisor Austin Price, investigators asked if he knew why Pannett would make a recommendation to a vendor to use Excenture Business Solutions as their MBE representative. Price answered, "No. I can't imagine that really ... We weren't the product experts in procurement at the central office level so we probably didn't know enough." Price explained that if someone asked who could provide a specific item, the person making the request would be directed to the website and shown who could provide that type of product through past examples of contracts. Price further stated it was his opinion that if Pannett recommended an MBE to a vendor, it could create a liability for ODOT if an issue "hit the fan" between the vendor and the MBE. Price stated he would have "washed his hands of the situation."

During an April 2, 2019, interview with Bolden, investigators asked if he had ever referred business to Excenture Business Solutions or John Wooldridge. Bolden answered, "Never."

Bolden stated if a business called and asked for a referral, he would send a them a copy of the entire vendor list.

ODOT Use of MBE Vendors

On May 24, 2018, investigators asked Pannett to explain how ODOT worked with MBE vendors. Pannett explained that to achieve the MBE set-aside goal, ODOT has a 15% goal for MBE expenditures. Pannett stated ODOT was at 28% after six years under the administration at the time (former ODOT Director Jerry Wray). Pannett advised he has been:

... wondering if anyone would raise concerns about that because it's not competitive in a sense. If we do an MBE only bid, then we get MBE vendors bidding, but they're not making the stuff ... and they're pass-throughs. There's nothing that says in the law that says they can't be, but that's not necessarily a great deal for the state if you're only looking at price. If you're looking at is it appropriate for the state legislature to have some social program, then it's perfectly fine and legitimate. But if you're looking at are we trying to save money? No. We're not frankly. But that's, you know, the structure we're given and that's what the law says so that's what we do. So we look at our eligible spend every year, try to make a goal, and every year we have been challenged to increase that goal and that hasn't changed. We were challenged again this year, you know in which to continue to look and find opportunities for these MBEs so that's another reason why we have these dual contracts where we have MBE only contracts verses [sic] normal contracts and it's by and large the same product.

On July 31, 2018, investigators asked ODOT Division of Opportunity, Diversity & Inclusion (DODI) Deputy Director Lauren Purdy if MBE companies manufacture products to sell. Purdy told investigators she didn't know if any current MBE was manufacturing products and when she was working with MBE companies, they were sourcing products and acting as distributors for products (not manufacturing). Purdy clarified by saying, "usually the MBE is a broker." Purdy told investigators that the set-aside goal for state agencies was 15% and ODOT was currently at 18%. Purdy stated that a couple of years previously, it was informally set that ODOT wanted to achieve a 20% set-aside goal for MBE. Purdy stated it was not unusual for ODOT to overreach in the case of an invitation to bid (ITB) that was MBE but there were no bidders to ensure they

met their 15% goal. Purdy stated, “It’s based on what they (ODOT) think will happen (past years spend) so they put in a little bit of cushion.”

Investigators asked Purdy if set-aside ITBs through an MBE increase the price of the product. Purdy acknowledged that there is an increase in the price of products if sourced through an MBE; however, Purdy added, “It isn’t as much as people think.” Purdy explained, “If it’s a distributor or brokering relationship, you do pay that brokerage fee ... so you do end up paying a little bit more ... there is still value added in those transactions. You do need to have someone take the order, talk to the manufacturer, and get the specifications that ODOT needs. It’s not as easy as pickup up the phone and placing the order. If you went straight price, you probably are paying a little bit more [through an MBE].” Purdy stated that ODOT has subject matter experts that specify the requirements for the products needed, noting that the specifications are not determined by the MBE.

During a September 12, 2018, interview, investigators asked ODOT Senior Sourcing Analyst James Schurch how some ITBs are deemed MBE only. Schurch stated years ago, there was a committee that decided what ITBs were considered MBE. Currently, Schurch said he and Pannett looked at what ODOT needed and attempted to determine if an MBE might be able to fill the need. During a January 22, 2019, interview, Pannett told investigators there wasn’t any criteria for MBE-only contracts. Pannett stated it was part of his job to look at the contracts and see what could be made available to MBEs. Schurch said Pannett or ODOT Division of Construction Management Sourcing Supervisor Robert Rounds might contact vendors or ODAS to see if an MBE was able to provide the desired product. Schurch stated, “Our problem is in most cases the MBEs are strictly brokers. You’re not going to get as good of a price and it depends on what the district’s budgets are as far as being able to justify an additional 20% for an item.”

Investigators asked Schurch, in his opinion, whether the State of Ohio is saving money through MBE bids. Schurch replied, “No. Not at all.” Schurch stated he would like to see everything bid as an open product with no set aside contracts. Schurch stated, “It would bring your prices down to where they’re in competition with the open vendor. Once they (MBE) know it’s a

multiple award contract, and only MBE versus MBE, prices can go up.” Schurch was asked if he knew of anything that would prevent an MBE from colluding with another MBE to make sure they all get a portion of a multiple award contract. Schurch stated, “Nothing I can think of.”

Invitations to Bid

Investigators learned from Schurch and others interviewed that the ITB process begins when ODOT sends emails to vendors or advertises an opportunity to bid on the ODOT website, accompanied with a pricing template. The vendors complete the template and return the sealed bids to ODOT on a compact disc (CD) by a particular deadline. The sealed bids are held in the locked bid box at the ODOT Central Office until the day when they are officially opened and scrutinized for accuracy. The vendor’s CD is copied and placed in the vendor’s folder or stored in a box at ODOT. The prices that the vendors bid on the contract are cut and pasted into a spreadsheet to show their tabulation, and the results are sent to the ODOT superintending office where subject matter experts (SME) review all specifications to ensure the bids meet the requirements of the contract. The ODOT superintending office makes their recommendations and sends them to Division of Construction Management Senior Sourcing Analyst James Schurch. Schurch signs off on the recommendations, then forwards them to his supervisor, Rob Rounds, who signs off on the bids and sends them to Pannett with the recommended vendor(s). Pannett approves the bid(s) then sends them to Deputy Director 6 Brad Jones, who authorizes and awards the vendor(s) the contract on behalf of the director of ODOT. ODOT notifies the awarded vendor(s), then the ODOT districts prepare purchase orders and begin to make purchases from the items on the contract.

During an interview on May 30, 2018, investigators asked Pannett how ODOT determines which vendors will be awarded different purchases from the contract on a multiple award bid. Pannett explained,

... We leave that to districts. We ask them to purchase from the low bidder but since it’s multiple award, we leave it up to them to make the determination of who they want and what they need.

Pannett was asked to clarify whether the product choices would be based upon a district's preference. (ie., John Deere or Case.) Pannett answered, "Yeah, it is." Sourcing Supervisor Rob Rounds interjected, "We don't see a lot of preference, but there is issues of preference."

Multi-Award Contracts

During a May 30, 2018, interview with Pannett and Rounds, investigators asked how multi-award contracts are determined. Pannett explained his office and the ODOT superintending office discuss the decisions together and that contracts are based off need and not always low bid. Districts are not required to purchase from the lowest bidder if the district can justify why the low bid doesn't work for them. Pannett stated the superintending office checks to verify districts are purchasing from the low bidder. Pannett stated once the contract is awarded, his office does not monitor it further.

On June 13, 2019, investigators contacted the ODOT superintending office and spoke to ODOT Office of Maintenance Administration Contacts, Field Operations Administrative Assistant 4 Scott Lucas. Lucas explained to investigators that the districts are instructed to purchase from the lowest bidder when possible. Lucas, however, contradicted Pannett and stated the superintending office does not review the purchases once they are made by the districts. Lucas stated the purchases should be scrutinized by the districts to ensure the lowest bid is being used when possible.

Investigators reviewed MBE contracts where there were multiple awards for bids on the same product, and the bid prices were not the same. Investigators asked Pannett why the award was split instead of being awarded to the low bidder. Pannett stated,

Multiple award means everybody wins, but nobody wins. Meaning you're all on contract. We may not buy from any of you ... That doesn't guarantee we're going to buy from you. That's basically guaranteeing you have an opportunity for us to buy from you. What we then advise our districts are to go to the lowest bidder. If that lowest bidder can't provide you what you need, you know you, this other person is on contract as well so you can go ahead and purchase from that vendor. So that's why we would put them both that same product on contract.

During a January 22, 2019, interview with Pannett, he clarified his "... everybody wins but nobody wins" statement by saying,

... if you met the minimum bid requirements, then you're going to be on the contract. ... You may be part of the contract and our folks in the different districts can buy from you but they are not guaranteed to buy anything from you.

Pannett stated this sometimes creates frustration with the vendors who think they are going to get business from the contract.

Pannett further stated,

... District 2 in Toledo may be closer to the one vendor and District 8 or District 10 down in Marietta may be closer to the other vendor and it's while he's more expensive on contract per se you know the delivery costs the opportunity for him to be there quickly you know may be more valuable for to District 8 or District 10 because he's closer to them than the guy up in District 2.

During an interview on May 30, 2018, Rounds explained,

One of the issues is a lot of the districts do have their local people they want to use which if they win the bid, fine. So we are very district and area driven. You know, there are only 5 Case dealers in Ohio so certain areas love Case. Other areas love John Deere because they have the dealer near them so a lot of what we do is district driven.

Rounds then explained they leave the high bids on MBE contracts because they previously received scrutiny from DODI because there were not enough bids from MBEs. According to Rounds, "They [DODI] want us to put more MBEs on there [contracts] that we're never going to use." Pannett confirmed Round's statement and explained,

... there is definitely a push statewide to increase the number of MBEs not even just the spend but the volume of MBEs that are on contract. Is it the most fiscally sound, well you know, program? No.

During the July 31, 2018, interview with Purdy, investigators asked if the DODI has any influence in what contracts are set aside as MBE and/or who is awarded. Purdy stated the Office

of Outreach assists Disadvantaged Business Enterprise (DBE)/MBE companies with the process of applying and shows the companies how the website works. Purdy further stated that there has been some conversation regarding which contracts could be set aside for MBE; however, ODOT DODI has no say in who is awarded.

During an interview with ODOT Senior Sourcing Analyst Schurch on September 12, 2018, investigators asked if there was anything that holds the districts accountable if they do not use the low bid on a multi-award contract. Schurch replied, “The only thing I can say is their budget.” Schurch acknowledged if the districts are being budget conscious, they should be purchasing from the lowest bid. Investigators asked Schurch if, in his opinion, it made more sense to curtail the opportunity for districts to overspend by just awarding by low bid only. Schurch replied, “To me it would, yes.”

Vendor Dispute Resolution

On July 31, 2018, investigators asked ODOT DODI Deputy Director Lauren Purdy to describe how manufacturer/vendor disputes were handled when she was the contract sale administrator for the ODOT Division of Construction Management. Purdy recalled an instance when a manufacturer, Pengwyn, was setting unrealistic financing requirements on MBE vendor, J.T. Dillard. Purdy explained that rather than being paid within 30 days of billing, Pengwyn wanted paid in 10 days. ODOT and J.T. Dillard were both concerned J.T. Dillard was being treated differently because they were an MBE. Purdy explained there was a meeting with Pengwyn to try and facilitate the issues. Ultimately, ODOT was notified by Pengwyn that they were concerned they would not get paid by J.T. Dillard. However, Pengwyn and J.T. Dillard were able to resolve their differences for that contract.

Purdy was asked if it was a typical scenario for ODOT to get involved in a private party dispute between a manufacturer and a vendor. Purdy stated, “It’s not typical, but it’s not unheard of. In this instance, there was an allegation of potential discrimination happening.” Purdy stated she spoke with ODOT Chief Legal Counsel Patrick Piccininni about this issue. ODOT facilitated the meeting and Pengwyn and Dillard talked amongst themselves. Purdy stated in the past, ODOT has received complaints from manufacturers that they were not getting paid by vendors. Purdy

explained it is up to ODOT to ensure payment is being received. Purdy stated if an MBE isn't getting paid by ODOT, the MBE could contact Thomas Pannett and ODOT would get involved.

Investigators asked Purdy if there were any discussions within ODOT regarding concern that by getting involved in private party disputes, it would open ODOT to liability for claims by other MBEs of preferential treatment. Purdy stated no help or assistance was given by ODOT beyond facilitating the meeting so Pengwyn and J.T. Dillard would talk. Purdy stated she and ODOT Deputy Director Brad Jones spoke about not wanting to be too involved in the meeting.

Internal control weaknesses found by investigators

Through the course of the investigation, investigators reviewed several MBE ITB files stored at the ODOT Division of Construction Management offices. Investigators noted internal control weaknesses through an inconsistency in the contents of the files, how the files were stored, the documents used to process the incoming bids, and the bid process. Furthermore, investigators found the language in the instructions for bidding were contradictory and ambiguous. Lastly, investigators determined that ODOT employees failed to use in-house forms to identify discrepancies in bids received from vendors. The following paragraphs summarize the internal control weaknesses identified during this investigation.

Requirements for Bids - Terms and Conditions for Submitting Excel Pricing File in Bid Package, and Contradictory and Ambiguous Language

Investigators noted that the ITB requirements provide:

SUBMISSION OF EXCEL PRICING FILE: Bidders **should** [emphasis added] submit both a media device with the completed electronic Excel pricing file (.xls) and a hard copy print out of the completed Excel file in their submitted bid package. The media device **should** [emphasis added] be marked with the bidder's name and the Invitation to Bid number ... Failure to submit this media device with a completed Excel price sheet from the Department's Microsoft Excel file and the hard copy print out of the completed Excel price sheet **may** [emphasis added] result in a bid being deemed non-responsive by the Department.

On September 12, 2018, investigators asked ODOT Senior Sourcing Analyst James Schurch, whether it was a requirement that vendors submit their bid on a CD. Schurch stated bids could be put on a CD or thumb drive. Investigators asked Schurch what happens when a bid packet is submitted as a printed document without a CD or thumb drive. Schurch stated the vendor would be contacted and asked to send the information as an attachment (email).

Investigators noted during a review of the files for ITB 830-18 that Excenture Business Supply submitted two separate bids during the bid process. After submitting the first bid, John Wooldridge requested to submit a second bid. The bid was accepted without supporting documentation beyond a price list. Without the supporting documentation, ODOT would not be able to determine if the items bid met the specification requirements. Requirements, however, state:

DESCRIPTIVE LITERATURE: Bidders may electronically, on their submitted media device, provide any descriptive literature (e.g. brochures, spec/cut sheets, drawings, MSDS, etc.) regarding the products and/or services offered by the bidder.

USE OF BRAND NAMES: The bidder is responsible to clearly and specifically identify the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the Department to determine if the product offered meets the requirements of the solicitation. Failure to furnish adequate data for evaluation purposes may result in declaring a bid nonresponsive.

Investigators spoke to both Pannett and Schurch to find out how ODOT determined the second Excenture Business Solutions bid met specifications when ODOT was unable to determine the specifications of the items being bid due to lack of supporting literature. Pannett and Schurch both stated they were unable to answer how the bid was accepted and in fact reiterated the bid should not have been accepted without supporting documentation. Investigators later determined the superintending office noted the discrepancy and contacted Excenture Business Solutions to determine what the specifications were for the product being bid.

Modification of Submitted Bids Prior to Public Bid Opening

During the course of investigation, Senior Sourcing Analyst James Schurch was asked to explain what happens when a vendor notifies him that they want to make a change to their bid prior to the bid being opened. Schurch stated the Division of Construction Management has handled it in two ways: 1) The bid packet could be removed from the bid box and handed back to the vendor to make their changes. 2) The vendor can submit a new pricing page with their CD and it would be attached by rubber band onto their packet. Upon opening the bid, the revised pricing would be used. However, investigators found the ODOT requirements provided:

MODIFICATION OF SUBMITTED BIDS PRIOR TO PUBLIC BID OPENING:

A bidder may request to modify their bid response prior to the scheduled date and time set for the public bid opening (i.e. bid submission deadline). To modify a bid response, the bidder must provide an alternate, complete bid package containing all required forms and necessary documents. The alternate bid package must be marked somewhere on the outer packaging as “REVISED”. Purchasing Services will not return the original bid package to the bidder. The original bid package will be kept in the contract file. In order to protect the integrity of the bidding process, bids shall not be prepared on the premises of ODOT.

Any bid which is prepared on the premises of ODOT may be immediately disqualified and receive no further consideration for award.

Investigators discovered the correct procedure was not being followed during Purdy’s tenure as contract sale administrator in the ODOT Division of Construction Management from July 2013 through December 2015. During Purdy’s July 31, 2018, interview, investigators asked her if the second bid would have to be submitted in a separate bid packet. Purdy stated, “Yes.” Purdy acknowledged, however, there were instances when a bidder would request to make a change before the opening date and the sealed packet would be removed from the locked box and sent back to the bidder so they could make changes.

Contradictory and Ambiguous Language

Upon review of the ODOT Office of Contract Sales, Purchasing Services terms and conditions, investigators discovered numerous instances of contradictory or ambiguous wording that could increase the risk of potential complaints from non-winning bidders due to contradictory guidance. Investigators discovered the instructions for bid submission often stated “may” and “should” instead of giving clear and concise instruction. For example:

SUBMISSION OF EXCEL PRICING FILE:

Bidders **should** [emphasis added] submit both a media device with the completed electronic Excel pricing file (.xls) and a hard copy print out of the completed Excel file in their submitted bid package ... Failure to submit this media device with a completed Excel price sheet from the Department's Microsoft Excel file and the hard copy print out of the completed Excel price sheet **may** [emphasis added] result in a bid being deemed non-responsive by the Department.

WHAT NEEDS INCLUDED IN BID PACKAGE: **Submitted bid packages should include, at a minimum, a completed Signature Page** [emphasis added], a hard copy printout of this entire invitation to bid document, media device with a completed Excel pricing page, hard copy of the completed Excel pricing page, and all necessary supportive documentation, forms, and any other information required herein. The Department **may** [emphasis added] deem a bid non-responsive for failure to submit any of the documents requested above.

SIGNATURE PAGE

This Signature Page must be completed [emphasis added] and submitted with a Bidder's sealed bid package to serve as acknowledgement to the Department that the Bidder understands and will comply with all terms, conditions, and requirements in submitting a bid (offer) for the above-referenced Invitation to Bid.

Failure to use Proper Forms, Maintain Consistency, and to Prevent Errors

While reviewing ITB documents, investigators observed a check sheet that is used by ODOT buyers (James Schurch) to assist in determining a bid has the proper accompanying documents and signatures. Investigators noted the check sheet was attached to some returned bids but not on all returned bids. Specifically, investigators noted for ITB 830-18 that Excenture Business Solutions provided a bid, then requested to submit a second bid. The second bid was accepted, however, upon review by investigators, it was found to be an incomplete bid which only contained a second price sheet and no supporting documentation such as specification sheets. Had the check sheet been used, the bid would not have been accepted; instead, the bid was accepted and awarded to Excenture Business Solutions.

Investigators asked Pannett about the check sheet and Pannett advised he was unaware of any check sheets used by the buyers. The check sheet included areas to validate accuracy such as:

- Check bid for original signature;
- Check for required price list;
- Check for specification sheets.

When investigators asked Schurch why the check sheet was not being used, he stated, “Things have changed considerable over time and it’s more computer generated, computer based than what it was in the past and the need has changed and it’s (check sheet) no longer necessary.” Schurch said there was no policy that stated the form must be used and there was no directive or policy to stop using it. Investigators noted the check sheet had an area to check off to ensure bids have the necessary specification sheets attached and, if used on ITB 830-18, this would have prevented the bid from moving along in the process. During the July 31, 2018, interview with Purdy, she explained the check sheet was in place before 2013.

District 5 Multiple Award Contract

While reviewing awarded contracts for Excenture Business Solution and J.T. Dillard, investigators reviewed the bid documents for ITB # 823-18 for Quick Setting Concrete Patching Material. Investigators determined both J.T. Dillard and Excenture Business Solutions bid the same product, Chemspeed 65. Excenture Business Solutions submitted a bid for \$23.01 per bag

and J.T. Dillard submitted a bid for \$19.60 per bag. Since the ITB specified this was a multiple award, both Excenture Business Solutions and J.T. Dillard were awarded by ODOT.

Investigators determined ODOT District 5 in Thornville, Ohio, purchased 120 bags of Chemspeed 65 grout from Excenture Business Solutions for \$2,762.00 although Excenture Business Solutions' price was \$409.20 more expensive than the price quoted by J.T. Dillard. To determine if the price difference could be due to availability issues, investigators checked to see which distributors Excenture Business Solutions and J.T. Dillard were using. Investigators discovered both Excenture Business Solutions and J.T. Dillard were quoting for Chemspeed 65 using the same distributor, who had offices in Cleveland, Canton, and Perrysburg.

On August 29, 2018, investigators went to ODOT District 5 and spoke to Sourcing Supervisor John Kalis and Transportation Manager Tom Collins, about ITB # 823-18. Collins stated it was his decision to purchase the Chemspeed 65 from Excenture Business Solutions. Collins explained "There was no certain reason" why he purchased from Excenture Business Solutions instead of purchasing from J.T. Dillard at a lower price. Collins stated he is new to the transportation manager position and just looked at the specs of what was needed and purchased from the first company on the list without comparing cost. Investigators noted there was nothing required for submission by Collins or nothing to be reviewed at the district level that would have prevented Collins from making the more expensive purchase. Collins stated he makes purchases by submitting a purchase order and waiting for the product to arrive.

Investigators asked Kalis if, when Collins submits a purchase order, it is reviewed to check that the low bid is being utilized. Kalis replied,

... we just make sure they are buying off contract and it meets the contract terms and conditions ... we like for them to go to MBEs because we have an internal goal of 20% that we have to hit ... actually our goal is 15% but we normally do 20% because a lot of the other state agencies can't make it where ODOT does so they've given us a 20% [unintelligible] so when it comes from the different cost centers we normally don't question it. It's more or less up to them. And the only thing we would question is if there was an MBE, why didn't you use the MBE quite possibly?

CONCLUSION

On March 30, 2018, an anonymous complaint was received by the Office of the Ohio Inspector General alleging that Excenture Business Solutions:

- Did not meet the current requirements to provide services to ODOT;
- Was engaging in unfair business practices;
- Received preferential treatment by ODOT because of the owner's participation in the ODOT Civil Rights Symposium; and
- Was telling vendors that another vendor, J.T. Dillard did not pay their bills and that ODOT was helping to collect payments.

Lastly, the complaint alleged that ODOT Division of Construction Management Contract Sale Administrator Thomas Pannett had allegedly instructed vendors to contact Excenture Business Solutions and use that company to submit bids to ODOT.

Requirements to Service ODOT

The complaint alleged that Excenture Business Solutions did not meet the current Minority Business Enterprise requirements to provide services to the Ohio Department of Transportation. Furthermore, the complainant alleged that Excenture Business Solutions was engaging in unfair business practices.

Investigators reviewed the Ohio Department of Administrative Services website for requirements for Minority Business Enterprise and found Excenture Business Solutions meets the requirements to conduct business with ODOT as an MBE. Investigators found ODAS determined Excenture Business Solutions met the criteria for being an MBE according to ODAS requirements. Therefore, Excenture Business Solutions could conduct business with ODOT as an MBE.

Accordingly, the Office of the Ohio Inspector General does not find reasonable cause to believe a wrongful act or omission occurred in this instance.

ODOT DODI Special Treatment of a Vendor

The complaint alleged that Excenture Business Solutions received preferential treatment from ODOT due to company owner John Wooldridge's involvement in a Civil Rights Symposium administered by the ODOT Division of Opportunity, Diversity, and Inclusion (DODI).

Investigators determined John Wooldridge was asked by DODI to be a keynote speaker at the second annual Civil Rights Transportation Symposium that occurred on April 10-11, 2018. ODOT DODI Acting Deputy Director Lauren Purdy told investigators that the theme of the symposium involved sports and Wooldridge played football for The Ohio State University and was drafted by the Dallas Cowboys. Wooldridge was not asked to participate as a speaker for the 2017 or 2019 Civil Rights Transportation Symposium. Investigators reviewed a listing of all sponsors and the amount of money donated by each sponsor to the symposium. Investigators discovered no donations were made by Excenture Business Solutions or John Wooldridge.

Accordingly, the Office of the Ohio Inspector General does not find reasonable cause to believe a wrongful act or omission occurred in this instance.

ODOT Assistance

The complaint further alleged Excenture Business Solutions was informing vendors that J.T. Dillard (a MBE competitor of Excenture Business Solutions) "doesn't pay their bills and ODOT is assisting in collecting the payments." Investigators asked ODOT Division of Construction Management Contract Sale Administrator Thomas Pannett if he knew how Excenture Business Supply may have heard that J.T. Dillard didn't pay their bills or that ODOT had to help collect payment from J.T. Dillard. Pannett stated he could not remember if he brought that to John Wooldridge's (Excenture Business Solutions) attention while having a casual conversation.

Investigators interviewed John Wooldridge, who denied informing anyone that J.T. Dillard didn't pay their bills or that ODOT had to help collect payment from J.T. Dillard. Wooldridge told investigators he heard from three manufacturers as well as ODOT Deputy Director Terry Bolden that J.T. Dillard was not paying its bills. During a subsequent interview with Bolden,

Bolden told investigators he did not recall making the statement to Wooldridge but added, “Maybe to my detriment, I did acknowledge it, unfortunately.”

Investigators determined that this information could be used by Wooldridge to solicit representation for companies J.T. Dillard represents, and in fact, Excenture Business Solutions now reportedly represents several companies J.T. Dillard once represented.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe the appearance of impropriety occurred in this instance.

Vendor Referral

The complaint further alleged that ODOT Division of Construction Management Contract Sale Administrator Thomas Pannett reportedly had instructed vendors to call Excenture Business Solutions and bid through Excenture Business Solutions.

On January 22, 2019, Pannett told investigators that after receiving several complaints from a supplier stating they were dissatisfied with their current MBE representative, J.T. Dillard, he suggested they call Excenture Business Solutions to become their new MBE representative. Investigators reviewed Pannett’s ODOT email and found on June 7, 2017, Pannett forwarded contact information for John Wooldridge to an individual at New Enterprise Stone & Lime (NESL). The same day, Pannett emailed John Wooldridge stating “I’m passing **another** [emphasis added] business opportunity your way. Expect a call from Jay Smith.” Investigators noted the use of the word “another” indicates Pannett had previously sent other referrals to Wooldridge. Investigators contacted NESL and were informed they called ODOT to obtain the name of an MBE company their Ohio distributor (Roadsafe) could use to sell products in Ohio.

Investigators found no policy directly addressing whether Pannett can make vendor referrals; however, given Pannett’s position as contract sale administrator with the ODOT Division of Construction Management and the fact Pannett stated, “... it is part of (the) job to look at the contracts and see what can be made available to MBEs,” it is not unreasonable to suggest an

appearance of impropriety exists that might erode public confidence in objectivity within the MBE community.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe the appearance of impropriety occurred in this instance.

ODOT Purchasing Policies

Purchasing Ethics and Vendor Visit Policy No.: 15-009(P) [\(Exhibit 1\)](#) states that,

ODOT shall purchase supplies and services in a fair and ethical manner ... Employees are required to perform their daily activities in a professional and responsible manner to maintain the public trust. Employees must avoid any “appearance or perception of impropriety.”

While investigating Pannett’s admission of attending a hunting trip with Wooldridge, investigators found no policy directly addressing whether Pannett and Wooldridge can socialize outside of work. Investigators found no evidence to refute the hunting trip was nothing more than socialization. However, given Pannett’s position as contract sale administrator with the ODOT Division of Construction Management and the fact Pannett stated, “... it is part of (the) job to look at the contracts and see what can be made available to MBEs,” it is not unreasonable to suggest an appearance of impropriety exists that might erode public confidence in objectivity within the MBE community.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe the appearance of impropriety occurred in this instance.

ODOT’s *Purchasing Ethics and Vendor Visit Policy No.: 15-009(P)* addresses “ODOT Employee and Vendor Responsibility,” and includes:

Employee Provisions	Vendor Provisions
<ul style="list-style-type: none"> • An employee may not participate in or receive an unannounced visit from a vendor. • All vendor visits must be scheduled in advance and by appointment only. • Vendors shall be escorted by an ODOT employee during their visit throughout the facility. 	<ul style="list-style-type: none"> • All vendors who are actively doing business with or seeking to do business with the State and/or with ODOT are expected to perform their business activities in a professional manner and avoid any “perceptions of impropriety.”

When interviewed, Pannett denied receiving and Wooldridge denied participating in unannounced visits. During interviews, however, investigators were told Wooldridge was known to “... pretty much just knock on the door and show up, come in, and sit down,” in Pannett’s office. Furthermore, DODI Deputy Director Terry Bolden told investigators that Wooldridge would show up at his (Bolden’s) office unannounced.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe wrongful acts or omissions occurred in these instances.

Modification of Submitted Bids Prior to Public Bid Opening

ODOT Office of Contract Sales, Purchasing Services, INSTRUCTIONS, TERMS AND CONDITIONS FOR BIDDING ([Exhibit 3](#)), provides:

To modify a bid response, the bidder must provide an alternate, complete bid package containing all required forms and necessary documents. The alternate bid package must be marked somewhere on the outer packaging as “REVISED”. Purchasing Services will not return the original bid package to the bidder. The original bid package will be kept in the contract file.

During the course of investigation, investigators discovered ODOT Division of Construction Management employees have not been following protocol established by the Division of Construction Management for several years in regard to modification of submitted bids prior to public bid opening.

Investigators asked ODOT Division of Construction Management Senior Sourcing Analyst James Schurch to explain what happens when a vendor notifies him they want to make a change to their bid prior to the bid being opened. Schurch advised they have handled it two ways: 1) The bid packet could be removed from the bid box and handed back to the vendor to make their changes, and 2) the vendor can submit a new pricing page with their CD and it would be attached by rubber band onto their packet. Upon opening the bid, the revised pricing would be used.

Furthermore, during a July 31, 2018, interview with ODOT DODI Deputy Director Lauren Purdy, she told investigators she had been the ODOT contract sale administrator prior to Thomas Pannett. Purdy acknowledged, during her time as contract sale administrator, there were instances when a bidder would request to make a change before the opening date and the sealed packet would be removed from the bid box and sent back to the bidder so they could make changes.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe wrongful acts or omissions occurred in these instances.

Through the course of investigation, investigators reviewed several MBE ITB files stored at the ODOT Division of Construction Management offices. Investigators noted internal control weaknesses through an inconsistency in the contents of the files, how the files were stored, the documents used to process the incoming bids, and the bid process. Furthermore, investigators discovered the language in the instructions for bidding were contradictory and ambiguous. Lastly, investigators determined that ODOT employees failed to use in-house forms to identify discrepancies in bids received from vendors. The Office of the Ohio Inspector General has issued recommendations for ODOT's consideration in an effort to strengthen ODOT's internal control system.

RECOMMENDATION(S)

The Office of the Ohio Inspector General makes the following recommendations and asks that the director of the Ohio Department of Transportation respond within 60 days with a plan detailing how these recommendations will be implemented.

1. Review the conduct of identified ODOT employees and determine whether administrative action is warranted.
2. Develop policies or procedures to implement a process for how vendor complaints are handled to prevent any appearance of impropriety or special treatment.
3. Develop a policy regarding the confidentiality to be maintained and what activities may occur during the solicitation phase and dissemination of vendor business.
4. Perform periodic reviews of ODOT purchasing policies for compliance with State of Ohio Procurement Policies and applicable laws and regulations; disseminate revised policies to both employees and vendors involved; and conduct periodic training sessions for both ODOT employees and vendors on ODOT purchasing policies to ensure both employees and vendors are familiar with this policy.
5. Conduct a review of the bid opening procedures, including vendor attendance, and determine whether the policy should be revised by supervising or confining the vendors upon their arrival until their departure.
6. Review and address instances of ambiguous or contradictory language in the information and directions contained within the State of Ohio, Department of Transportation Office of Contract Sales, Purchasing Services Invitation to Bid documents.
7. Consider developing a policy requiring the buyers to use the check sheet or some other methodology to ensure accuracy and compliance with the bid packet instructions for each bid ODOT receives.
8. Consider developing a policy requiring districts to obtain written and management-approved justification documenting the reasons why a low bid vendor is not awarded the purchase on multiple award contracts.

REFERRAL(S)

The Office of the Ohio Inspector General has determined that no referrals are warranted for this report of investigation.



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

NAME OF REPORT: Ohio Department of Transportation

FILE ID #: 2018-CA00022

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
October 24, 2019

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