

Office of the Illinois Comptroller's
SMART Business Illinois Report
Calendar Years 2016 and 2017

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STATE OF ILLINOIS
COMPTROLLER
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**Note: Due to the challenges encountered over the past year in gathering the data necessary for a complete report that follows the legislative intent of the State Comptroller Minority Contractor Opportunity Initiative, the Office of the Comptroller has determined in good faith that complete and verifiable data for calendar years 2016 and 2017 is unavailable at the time of this publication, making any differences between reports for the two years negligible and ineligible for analysis. Therefore, the reports for calendar years 2016 and 2017 have been combined into a single report. These challenges and the steps the Office is taking to address data deficiencies are explained further throughout the following text. The Office of the Comptroller will continue working to obtain this data for future reports.*

Executive Summary

The following is the annual report for calendar years 2016 and 2017 of the State Comptroller Minority Contractor Opportunity Initiative (Senate Bill 269, 97th General Assembly; Public Act 97-0590).

2017 was a year of transition for the State Comptroller Minority Contractor Opportunity Initiative, now known as SMART Business Illinois. Office of the Comptroller staff diligently reviewed the program and the state statute governing the program to ensure the responsibilities of the Office are being fully met to the intention of the law enacted in 2011. This review revealed aspects of both the program reporting and the law the Office believes should be strengthened and clarified to properly carry out the directives of state statute and, equally as important, to help small, minority-owned and women-owned businesses and businesses owned by persons with disabilities compete for state contracts.

The core mission of the program is to promote opportunities through outreach, counseling and education. The program staff outline and clarify state certification and procurement procedures and support applicants through the various processes. Because these procedures are managed by separate state agencies, consolidation of information in the Office of the Comptroller can be valuable to interested vendors.

After reviewing state records to prepare this report, it became evident there were considerable gaps in the program's infrastructure and execution, and that acquiring the necessary information is a challenge. Information is not easily accessible or identifiable, as agencies implement their respective responsibilities of the procurement program, resulting in the creation of individual records for their own reporting purposes.

Background

The State Comptroller Minority Contractor Opportunity Initiative, proposed by former Comptroller Judy Barr Topinka and signed into law in August 2011, was created to provide greater opportunities for minority-owned businesses, female-owned businesses, businesses owned by persons with disabilities, and small businesses with 20 or fewer employees in the State of Illinois. Under the initiative, the Office of the Comptroller is responsible for outreach, education, notification, an online database, and the total paid to the businesses noted above.

A reading of the debate of Senate Bill 269 in the House of Representatives shows the law is intended to increase participation in state contracts among minority-owned and women-owned business through *education and outreach* and through annual reports produced by the Office of the Comptroller, with the goal of boosting success rates through activity at “small-business and minority-business conferences, international trade seminars, and other events.”¹ However, an evaluation of the effectiveness of this education and outreach is weakened without complete and proper data on awards to contractors and subcontractors.

Under former Comptroller Topinka, the POWER (Providing Opportunities for Work through Education and Resources) Program was launched to further the goals of the Minority Contractor Opportunity Initiative. The goal of the program was to guide businesses through the procurement and certification process, offer workshops, and provide information and support to businesses as they competed for state contracts.

In March 2017, Comptroller Susana Mendoza reinvigorated the program and renamed it SMART Business Illinois. The renamed program stands for goals that are *Specific, Measurable, Achievable, Realistic, and Timely*. Comptroller Mendoza believes the program should offer individuals and businesses access to a variety of procurement opportunities within state government, making opportunities more accessible and achievable by providing support staff to guide minority-owned businesses, female-owned businesses, businesses owned by persons with disabilities, and small businesses (known as “SMART participants”) through the process of obtaining state contracts in accordance with state statute.

To the best of the Office of the Comptroller’s knowledge, after extensive inquiries and searches, a single report (fiscal year 2012, the first report after Public Act 97-0590 took effect) was published between the first report and this report. It is unknown why reports for the following years were not preserved or published.

Statutory Authority

Public Act 097-0590 charges the Comptroller with preparing and submitting a report to the Governor and the General Assembly regarding the progress of the initiative for the preceding calendar year. The Office of the Comptroller is required to report the following:

- The total amounts paid by each executive branch agency to contractors since the previous report;
- The percentage of the amounts that were paid to minority-owned businesses, female-owned businesses, businesses owned by persons with disabilities, and small businesses;

¹ Senate Bill 269, House debate transcript, 5/31/2011.

- The successes and the challenges faced by the Comptroller in operating outreach programs for minorities, women, persons with disabilities, and small businesses;
- The challenges each executive branch agency may face in hiring and contracting with qualified minority, female, disabled, and small business employees; and
- Any other information, findings, conclusions, or recommendations the Comptroller deems appropriate.

The statute also requires the Office of the Comptroller to work with the Business Enterprise Council to fulfill the Comptroller's responsibilities under the statute, and that the Office may rely on the Business Enterprise Council's identification of minority-owned businesses, female-owned businesses, and businesses owned by persons with disabilities. The Business Enterprise Council maintains and certifies a list of businesses legitimately classified as owned by minorities, women, or persons with disabilities.

The Business Enterprise Council and Its Role

In producing this report, the Office of the Comptroller contacted the Business Enterprise Council, which is run by the Department of Central Management Services. The Business Enterprise Council provided the figures for fiscal years 2016 and 2017 that it will use to write its own annual reports.

The Office of the Comptroller used the information provided by the Business Enterprise Council to determine the businesses that have been certified by the Council as businesses owned by minorities, women, and persons with disabilities. However, after thorough review of the data and the Office of the Comptroller's interpretation of statute, the opinion of the Office is that while the numbers provided a key component in measuring objectives for meeting state law for minority contract awards, the data did not present a complete picture.

The data, overall, was incomplete and only represented a portion of what should be tracked. The Office of the Comptroller only has the capability to search for payments to prime contractors. There is nothing in place to allow for a search of payments made to subcontractors, which is important because a number of small businesses and Business Enterprise businesses are subcontractors. Subcontracting is traditionally used as a way for smaller businesses to receive some of a state contract by doing a portion of the work for the prime contractor that has bid on the job. Without a way to track subcontractors, a substantial portion of the businesses that qualify under the program is missed.

Additionally, the Office of the Comptroller performed a search of available federal identification numbers of the businesses identified by the Business Enterprise Council. These federal identification numbers do not include all the potential candidates who are registered with the program or that qualify under the Minority Contractor Opportunity Initiative. Because the Office of the Comptroller is conducting a review based on qualifications for the Business Enterprise Program and Small Business Set-Aside Program, the recipients may have bid on and received state contracts outside these programs, and therefore would still count under the Minority Contractor Opportunity Initiative. Without a comprehensive list of qualified businesses and the ability to monitor subcontracting, any data pulled from the payment system will be inaccurate.

Achievements and Challenges

Outreach

Outreach and education are the primary goals of the SMART Program. In calendar year 2017, SMART Program staff in the Office of the Comptroller assisted 227 businesses and individuals from 19 different fairs and expositions to search out state contracts. Staff assisted vendors in identifying procurement postings to discover opportunities suited to the individuals in contact with the SMART Program. The attendance for all 19 events combined totaled 3,442 people. In the future, the Office of the Comptroller would like to reach more potential vendors statewide to guide them to the program's resources.

Information for calendar year 2016, when the program was overseen by the previous comptroller's administration, is incomplete. The Office of the Comptroller is implementing a system moving forward to document and memorialize this information.

SMART Program staff has developed an aggressive outreach plan designed to promote the program across the state. This involves working closer with regional and local chambers, business organizations, non-profit and community associations, regional social agency groups, and liaising with municipalities. Additionally, SMART program staff is in the process of developing a vendor manual for SMART-qualified businesses, which will serve as an informational guide to assist them through the procurement process.

Interagency Collaboration

In 2017, SMART Program staff created a statewide business support working group for procurement. The following agencies are represented: the departments of Human Rights and Commerce and Economic Opportunity, the Illinois Procurement Gateway, Capital Development Board, and the Business Enterprise Council. The group's main objective is to collaborate in support of SMART-eligible businesses.

Challenges in Data Management

Office of the Comptroller staff found that the tracking of SMART Business Illinois participants' progress was not properly monitored to ensure minority contracting goals are achieved. Once participants go into a certification process, there is no way to monitor whether they obtain the certification or secure a contract or not. While data from the Business Enterprise Council and the Illinois Procurement Gateway identified contract awards, this information did not specifically identify SMART Business Illinois participants.

The POWER Program was measuring the success of the program based on meetings and events attended. This process is flawed. Staff are working to restructure data monitoring to identify successful participants of SMART Business Illinois and ensure the program is working as intended. It is anticipated this will be launched in 2018. In 2017, new application forms were developed to capture required information digitally, and an internal dashboard was launched to monitor client activities and progress through the SMART Program.

Challenges Facing the SMART Program

Obstacles exist in the quest to disseminate information to the public, ranging from shortfalls in the statute's wording to a lack of publicly available information.

- Statute requires a report on the previous calendar year, while most state reporting is done on a fiscal year basis
- Statute lacks requirements for other state agencies to work with the Office of the Comptroller to fulfill the intent of the law
- Few agencies are aware the Office of the Comptroller requires this reporting
- The information needed to create the report is not readily available in a format that can be independently analyzed
- The systems for tracking information at other agencies are inconsistent and require piecing together information manually
- There is little guarantee the vendors who receive an award under the program will retain the subcontractors who allowed them to qualify for the award in the first place
- There is no system in place to track payments to subcontractors; if a prime contractor is paid by the state, there is no way to verify they have paid subcontractors
- Payments to vendors have been stymied by the ongoing budget crisis, making accurate analysis of payments in the last two years difficult

Challenges in Recruiting Businesses and Obtaining Contracts under the SMART Program

- The state's inability to pay businesses and individuals in a timely manner discourage potential participants (few SMART-qualified businesses can afford to subsidize the work)
- The scale of projects is outside the capacity of qualified vendors
- Agencies must be aware of lapsed contracts to allow time for bidding opportunities to SMART-qualified businesses
- Agency procurement officers are not required to provide information as to whether a contract might be identified as a SMART business opportunity

Statement of total amounts paid by each executive branch agency in 2016 and 2017

Public Act 097-0590 puts emphasis on the amount paid to contractors who qualify and are certified as minority-owned businesses and female-owned businesses, businesses owned by persons with disabilities, and small businesses. Because the Office of the Comptroller maintains the fiscal accounts of the state of Illinois and issues payments to individuals and businesses, the Office is in a unique position to identify outgoing payments on state contracts. Staff can research payments made to qualified vendors, as well as overall contract spending out of each agency, but information on subcontractors is lacking. This results in incomplete and misleading conclusions and should be addressed.

The Business Enterprise Council calculates its achievements according to “Dollars Subject to Goal.” Dollars Subject to Goal is calculated from the total agency budget, minus exemptions granted by the Business Enterprise Council. The Business Enterprise Council grants exemptions for larger contracts that cannot be fulfilled by qualifying minority-owned businesses, female-owned businesses, or businesses owned by persons with disabilities. This information is not publicly available from the Business Enterprise Council, nor is it available on agency websites. Without access to an exemption list, it is difficult to narrow the overall spending per agency to achieve the Dollars Subject to Goal.

Due to the gaps in data previously noted, the Office of the Comptroller determined it would be disingenuous and would not fulfill the intent of the law to provide and attempt to analyze numbers that present only pieces of the entire project.

Small Businesses and the SMART Program

The Small Business Set-Aside Program is a program in the Chief Procurement Office focused on setting aside certain contracts for qualified small businesses. The goal of this program is to create an economic benefit by keeping money in the state, as only small businesses based in Illinois may participate. The set-aside limits the pool of vendors eligible to compete for contracts while still promoting competition. According to the *State of Illinois Chief Procurement Office for General Services-FY17 The Year in Review*, in fiscal year 2017, which is July 1, 2016 to June 30, 2017, the Chief Procurement Office for General Services recorded 911 Set-Aside Business Program vendors receiving contract payments, with a total value of \$146,626,048.

Because it covers the fiscal year, the report does not match the calendar year requirement of the SMART Program reporting. Therefore, the data, at this time, cannot be directly matched with the available calendar year data. Additionally, data for the small-business requirement of the report was unavailable at the time of the publication of the Comptroller’s SMART report for calendar years 2016 and 2017. The Office of the Comptroller is working with state agencies to obtain this data. Some qualified businesses for the Small Business Set-Aside Program overlap with the Business Enterprise Council.

Conclusion and Recommendations

The Future of the SMART Program and Data Collection

Goals for the future of the SMART Program within the next year have been identified. To meet the needs of all Illinoisans and be accountable, the program should increase its momentum and outreach across the state, improve its monitoring and documentation procedures, provide greater information to vendors about minority contract programs and how to apply and qualify for state contracts, and more aggressively promote the program to all groups the law is intended to reach.

The innovators of the State Comptroller Minority Contractor Opportunity Initiative were well intentioned when they pushed for the law, and their intentions should be maintained. However, they must also be strengthened. To maximize the program's effectiveness and achieve the best results, the Office of the Comptroller proposes the following recommendations.

1. Access to Comprehensive Data

As noted in the ***Background*** section, the intent of the State Comptroller Minority Contractor Opportunity Initiative is to increase participation in state contracts among SMART-qualified businesses through education and outreach and by comparing annual reports compiled by the Office of the Comptroller. For the Office of the Comptroller to properly perform its intended duties and role under statute, the Office should have access to comprehensive data. Otherwise, the reports and their analyses – with the goal of greater participation in state contracts among small businesses, women-owned and minority-owned firms, and businesses owned by persons with disabilities – are incomplete and insufficient.

Put another way, the Office of the Comptroller needs a road map to know where the State Comptroller Minority Contractor Opportunity Initiative is headed, how to maximize its effectiveness, and how to properly serve the intended audience when enacted into law, and this map is incomplete without a comprehensive set of numbers.

2. Make Data Publicly Accessible

Currently, the data for all the different portions of the program is housed at separate agencies, and must be pieced together to view a comprehensive picture. It is the goal of the Office of the Comptroller to develop agreements with the different agencies, such as the Business Enterprise Council and the Executive Ethics Commission, to allow for the transmission of data into one database. The database would track the award amounts and how much is paid to vendors, the certifications of the vendors, and would automatically cross-check and pair the information from the various systems. This would provide a searchable and publicly accessible database (that would include no personally identifiable information) on the Comptroller's website.

3. Monitoring of Subcontractor Payment

The SMART Program is considering a database for subcontractors to self-report their contracts and payments. Although agencies with the contracts should monitor compliance, which subcontractors are paid and how much they are paid, this is time consuming and not always possible. The Office of the Comptroller would like to simplify contract compliance to be sure that contracts received by partnering with a SMART-eligible business maintain the threshold under which they received the contract.

4. Interagency Data Sharing

Staff would like to determine the critical data points to fulfill statutory requirements, and which agency possesses those data points. Additionally, the program would develop a format to share data on a regular basis, whether it be daily, weekly, or monthly. The data would likely include both the award amount and the paid amounts to the qualifying businesses.

The Office of the Comptroller would like to establish and maintain relationships with the Business Enterprise Council and the Executive Ethics Commission for a flow of information in the form of interagency agreements. Currently, the Office is working on an agreement with the Executive Ethics Commission regarding the transfer of information from the Illinois Procurement Gateway to identify and track awards to small businesses as required by statute.

5. Calendar Year to Fiscal Year

As noted previously, statute requires the State Comptroller Minority Contractor Opportunity Initiative annual report to include information from the preceding calendar year. However, given that the agencies on which the Office of the Comptroller relies for information on contracts track their data by fiscal year, the statute creates an inconsistency. To address this inconsistency, the Office of the Comptroller recommends, and is preparing legislation for the 2018 legislative session, amending statute to provide for reports following the fiscal year, not calendar year.

The future of the SMART Program has exciting potential through the vision of the Office of the Comptroller. Greater cooperation will increase the opportunities for small businesses, and businesses owned by women, minorities, and disabled persons in Illinois.