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Cover photo illustration by Denver Auditor’s Office staff.
June 18, 2020

AUDITOR'S LETTER

The objective of our audit of the Minority/Women and/or Disadvantaged Business program in the Division of Small Business Opportunity was to determine the effectiveness and efficiency of the program. BerryDunn conducted this audit on behalf of the Auditor’s Office. I am pleased to present the results of this audit.

The audit found 34% of contracts during the audit period did not meet the program's goals, and there were no consequences for these contractors. The division did not have adequate procedures or documentation for monitoring goal progress or failure. The division also issued many extensions of program certifications partly because of delays in the recertification process. This could allow businesses that no longer meet program requirements to bid on new projects and remain on a contract as a certified business for the duration of that contract. Finally, the audit revealed goal setting for contracts was not adequately documented and did not follow a consistent methodology, potentially resulting in inconsistent or unreasonable goals and more limited competition.

The audit also revealed the Division of Small Business Opportunity lacked updated, documented procedures necessary for consistency, accountability, and compliance with city ordinance. Further, the division did not use its records system to its full capacity, such as by not running accurate reports to monitor noncompliant contractors and by not tracking payments to second-tier subcontractors. This could allow work performed by noncertified businesses to count as meeting the program’s goals.

These issues may significantly weaken the program’s efforts to advance economic mobility, equity, and diversity. By implementing recommendations for stronger policies, procedures, monitoring, enforcement, reporting, timely certifications, and goal setting, the Division of Small Business Opportunity will be better equipped to effectively and efficiently administer the Minority/Women and/or Disadvantaged Business program. We are pleased the division has started working on many of the recommended improvements.

This audit is authorized pursuant to the City and County of Denver Charter, Article V, Part 2, Section 1, “General Powers and Duties of Auditor.”

We extend our appreciation to the personnel at Denver Economic Development and Opportunity and specifically its Division of Small Business Opportunity, as well as the personnel at Denver International Airport and the Department of Transportation & Infrastructure, who assisted and cooperated with us and BerryDunn during the audit. For any questions, please feel free to contact me at 720-913-5000.

Denver Auditor’s Office

Timothy M. O’Brien, CPA
Auditor
Performance Audit of Denver Economic Development and Opportunity’s Division of Small Business Opportunity Minority/Women and/or Disadvantaged Business (M/WBE/DBE) Program

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Date: June 18, 2020
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Audit Summary

BerryDunn was contracted by the City and County of Denver (the City) Auditor's Office to conduct a performance audit of the Denver Economic Development and Opportunity’s (DEDO's) Division of Small Business Opportunity (DSBO) Minority/Women and/or Disadvantaged Business (M/WBE/DBE) program. This report includes background information of DSBO, the test procedures, interviews conducted, documents reviewed, and the results of the audit.

BerryDunn conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that BerryDunn plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on the firm’s audit objectives. BerryDunn believes that the evidence obtained provides a reasonable basis for findings and conclusions based on the firm’s audit objectives.

DSBO has stated that they took action prior to or during the audit to resolve the issues identified in the findings related to the following recommendations: 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 2.1, 2.2, 2.3, 2.4, 2.6, 4.2, 5.1, 5.2, 6.1. BerryDunn understands DSBO was aware of the need for the identified recommendations, however, we were not provided with any evidence of the implementation or resolution of the recommendations prior to the conclusion of fieldwork.
1.0 Background

The Denver Auditor’s Office engaged BerryDunn to conduct an audit of Denver Economic Development and Opportunity’s (DEDO’s) Division of Small Business Opportunity (DSBO) Minority/Women and/or Disadvantaged Business (M/WBE/DBE) program.

DEDO advances economic prosperity and mobility for the City’s businesses, neighborhoods, and residents by working to broaden the tax base; stimulate the growth of companies across the spectrum, from start-ups to the City’s largest employers; increase the availability and affordability of housing; and develop a skilled workforce for the region’s employers.¹

DSBO was created to develop and enforce programs for enhancing minority-owned, woman-owned, and Small Business Enterprise utilization in City construction, professional design, and Denver International Airport (the airport) concession contracting. DSBO is also responsible for monitoring and promoting economic development of such minority, women, and small businesses.² DSBO became part of DEDO in 2004 in recognition of the fact that helping certified firms conduct business with the City must be part of the City’s economic development strategy.

DSBO also manages the Emerging Business Enterprise program and oversees the City’s compliance with the federal Disadvantaged Business Enterprise and the federal Airport Concessions Disadvantaged Business Enterprise programs. The scope of this audit includes only the M/WBE and DBE programs, which are collectively referred to as the M/WBE/DBE program. The ordinance for these programs was recodified in 2006; amended in 2014 and 2017; and is being updated now.³ The rules and regulations for the administration and enforcement of these programs were adopted in 2016.⁴

DSBO has four primary responsibilities:

1. Processing new and renewal certifications
2. Setting annual aspirational goals and project-specific goals
3. Enforcing compliance with project goals
4. Conducting outreach and providing technical assistance to certified firms

Certification is the first step for M/WBE/DBE businesses to participate in City contracts. Once approved, an M/WBE/DBE is certified for three years and must reapply to renew its certification before the three-year anniversary of the certification date.⁵ Additionally, prior to each annual

¹ Denver Economic Development and Opportunity website
² Denver Revised Municipal Code § 28-31
³ Denver Revised Municipal Code § 28
⁴ Rules & Regulations of Divisions 1 & 3, Article III of Denver Revised Municipal Code § 28
⁵ Denver Revised Municipal Code § 28-55

1.0 Background | 2
certification anniversary, an M/WBE/DBE must submit an affidavit certifying that there has been no change in any information affecting certification eligibility, including tax or other financial information and documents. If the business is M/WBE and DBE, the certification will be renewed with the M/WBE renewal. If the business is only certified as a Disadvantaged Business Enterprise, then renewals are completed annually with the no change affidavit. The City offers six different certification types:

1. Minority/Women Business Enterprise
2. Small Business Enterprise
3. Emerging Business Enterprise
4. Disadvantaged Business Enterprise
5. Airport Concessions Disadvantaged Business Enterprise
6. Small Business Enterprise Concessionaire

DSBO is responsible for setting annual aspirational goals for the local M/WBE program, in order to help ensure minority and woman-owned businesses are being utilized on qualified City contracts across all departments. DSBO does not publish aspirational goals for the DBE program; however, federal regulations state the national aspirational goal for DBE participation is 10%, which DSBO has exceeded. The City contract categories that are qualified to receive an annual M/WBE goal include construction, professional design, covered goods and services, and the airport tenant finish. DSBO assigns each aforementioned contract category to an annual aspirational goal for M/WBE utilization. The aspirational goals are assigned to each contract category based on the total dollars spent on such contracts in previous years and the availability of certified firms. DSBO is also responsible for assigning project-specific goals for M/WBE/DBE utilization. Project-specific goals are set on a project-by-project basis, and information specific to the project is considered when calculating the goal percentage. These goals are now based on a methodology that includes:

1. A completed goal-setting form for all relevant project information submitted by the user agency’s project manager

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6 Denver Revised Municipal Code § 28-55
7 Projects that consist of vertical (buildings) or horizontal (roadways, parks, etc.) construction
8 Projects that consist of a wide variety of professional services, such as design, consulting, architecture, etc.
9 Projects that consist of the procurement of supplies (parts and equipment, etc.) or services (janitorial, security, etc.)
10 Airport contracts with tenant finish projects of more than $150,000 for airport tenants (concessionaires, car rental companies, airlines, etc.). These businesses contract directly with general contractors. Because these projects take place on City property, City ordinances apply.
11 The City department procuring the project (Department of Transportation and Infrastructure (DOTI), airport, etc.)
2. A North American Industry Classification System (NAICS) code analysis of certified contractors for the City and the seven counties

3. A B2GNow\textsuperscript{12} (B2G) goals module analysis of subcontractors’ availability based on other City projects

4. Historical M/WBE/DBE goal-setting data for City projects that include the total number of similar previous projects, their assigned goal averages, and attained goal averages

5. An average of all analyses calculated in numbers 2 – 4

In addition to M/WBE/DBE certifications, DSBO has established a defined selection pool program, which designates certain construction and goods and services contracts to certified Small Business Enterprises and Emerging Business Enterprises. Small Business Enterprises and Emerging Business Enterprises do not follow the goal-setting methodology listed above. These certification types were not a focus of this report.

Furthermore, DSBO is responsible for monitoring compliance with assigned M/WBE/DBE project goals. Prime contractors can meet their assigned goals by either making subcontracting commitments with certified M/WBE/DBE subcontractors in their proposals, using letters of intent—or by submitting waivers that show they made reasonable good-faith efforts to fulfill the goals, but could not do so. A letter of intent is a document containing declarations that were created and agreed upon between the prime contractor and subcontractors. DSBO monitors contractor performance based on the letters of intent provided in the prime contractor’s proposal. In addition, DSBO monitors projects by conducting outreach regarding goal progress and good faith efforts, and follows up with contractors that are missing their goals or will not meet their goal at project completion. As final verification for all projects with a goal, DSBO reviews the confirmation by the prime contractor and subcontractors of final payments at contract conclusion.

Lastly, DSBO is responsible for conducting outreach and providing assistance to certified firms. DSBO provides guidance to contractors and certified firms on a variety of topics, including technical assistance for systems utilized by the City, certification activities, and program compliance. DSBO also provides monthly training for interested businesses on being certified and conducting business with the City.

DSBO is also responsible for communicating with other agencies and divisions to promote policies and programs that strategically increase the utilization of Small Business Enterprises, Emerging Business Enterprises, M/WBEs, and DBEs on City contracts.

In 2019, DSBO engaged a firm to conduct a 2018 disparity study that examined the City’s procurement; goal setting; legal precedents; analysis of federal law, state law, and City

\textsuperscript{12} A multi-functional enterprise software system that supports contract compliance and certification programs in governments
background; availability and utilization of M/WBE's businesses; and general market conditions for the seven-county metro Denver community.13

In response to the recommendations included in the disparity study and at the direction of the Mayor, a Business Equity Leadership Team was created to help address the recommendations and implement improvements. In 2019, DSBO identified the following 10 key priorities that it focused on improving based on the information outlined in the disparity study:

- Extend the Ordinance While Making Changes and Updates
- Restructure Goal-Setting Procedures
- Develop and Implement a Mentor Protégé Program
- Re-evaluate Selection Criteria and Request for Proposal Language
- Revise Goods and Services Ordinance14
- Unbundle Procurements
- Review Contract Compliance
- Develop Tools for Education and Outreach to the Small Business Community
- Review DSBO Staffing
- Address Construction Empowerment Initiative Recommendations

BerryDunn understands DSBO implemented many changes last year, and that DSBO will continue making improvements upon the completion and approval of the updated ordinance.

13 Denver 2018 Disparity Study
14 Denver Revised Municipal Code 28 Section V
2.0 Objectives, Scope, Methodology

Objectives

Objectives: The Denver Auditor’s Office requested BerryDunn audit the City’s DSBO M/WBE/DBE program for:

1. Sufficiency of policies and systems to achieve program goals and objectives
2. Amount of City projects achieving project-specific goals
3. Sufficiency of policies and systems to certify, recertify, and verify certified businesses
4. Validity of system for setting project goals and ratios
5. Ability of the City’s certified businesses to meet individual project and cumulative citywide project goals and ratios
6. Validity of program procedures for changing project goals and ratios

Scope

The scope of this audit included an assessment of the DEDO DSBO M/WBE/DBE program for effectiveness of policies, procedures, practices, and systems. Specifically, BerryDunn reviewed procedures used to certify enterprises, create and monitor goals, and observe the systems used for these tasks. BerryDunn performed testing procedures on contracts selected from an audit period of January 1, 2018, to December 31, 2019. BerryDunn also evaluated the current DSBO practices based on observations, interviews, and system walkthroughs.

Methodology

BerryDunn utilized several methodologies to gather and analyze information throughout the audit in order to address the audit objectives. The methodologies included, but were not limited to:

Interviews:

- B2G interview – Sales and Marketing manager
- Certification interview – Certification supervisor
- Compliance interview – Compliance supervisor
- DEDO senior management interview – DEDO executive director
- Airport contract administration interview – Airside Engineering supervisor; Infrastructure director
- Airport procurement interview – Business Management Services senior director; contract administrator
- Airport project manager interview – Airport project manager
- Department of Transportation and Infrastructure procurement interview – Procurement and Contracting manager
- Department of Transportation and Infrastructure project manager interview – Architect manager
- DSBO senior management interview – Director, Assistant director
- Project goals interview – Business Utilization analyst
- Personnel from other cities with business inclusion programs:
  - City of Tampa, Contract Compliance
  - City of Phoenix, Equal Opportunity Office lead
  - City of Phoenix, Equal Opportunity specialist
  - City of Saint Paul, Vendor Outreach and Contract Compliance
  - Hillsboro County, Florida, Contract Compliance and Goal Setting
- Contractor interviews:
  - Three interviews with prime contractors
  - Two interviews with subcontractors

Review of the documentation:
- Program policies and procedures:
  - City rules and regulations, such as:
    - Purchasing regulations
    - Certification rules and regulations
    - Project goal regulations
  - City ordinance
  - Program goals and objectives adopted by the City
- Reports:
  - 11/6/2019 DSBO Year to Date Goal Summary
  - 2018 DSBO Denver Disparity Summary
  - 2017 DSBO Annual Report
  - 2016 DSBO Bi-Annual Diversity and Inclusiveness Report
  - 2015 DSBO Bi-Annual Diversity and Inclusiveness Report
Objectives, Scope, Methodology

- List of the City’s certified businesses
- List of all City projects that had M/WBE/DBE goals assigned from January 1, 2018 – December 31, 2019

• Review of guides and manuals:
  - Online Application User Manual
  - Organization chart of governmental units that administer the M/WBE/DBE program

• Review of forms:
  - Form 18A
  - Letter of Intent form
  - NAICS Code Change Request form
  - Project Goals Determination Request form
  - Schedule of Work form
  - Subcontractor Summary Report form

Observations:

• System (B2G) used for certifying, recertifying, and verifying certified businesses
• System (B2G) and methodology used for establishing and monitoring goals
• Reporting of contracts and goal status
• General B2G system platform and all functionalities and reporting capabilities

Testing:

• Selected 10 projects that did not meet project goals, and inspected project monitoring documentation to determine that all relevant DSBO monitoring requirements are completed for projects monitored by DSBO. BerryDunn requested a listing of contracts completed from January 1, 2018 – December 31, 2019. We received a listing of 89 contracts, including 30 that did not meet their goal. We randomly selected nine projects, and chose one project with the highest percentage difference between the goal percentage and the participation percentage.

• Reviewed the process utilized when a scope or subcontractor change request is made on a contract, as well as the procedures DSBO follows to document the change.

• Selected eight projects with goals assigned by DSBO, and inspected project goal forms to determine that all relevant requirements are completed for goals created and
assigned to projects by DSBO. BerryDunn selected four projects from April 2019 and four projects from December 2019. We selected the three contracts with the highest goals, and the one contract with the lowest goal from each month, excluding “on-call” contracts. The goals creation and assignment process was modified during the audit period, so April and December were selected as testing months to verify that requirements were followed both before and after the process was modified.

- Reviewed system functionalities and compared DSBO to benchmark organizations in other cities and counties to identify if the system is sufficient.
- Selected 10 certified and four denied businesses to identify if a consistent process was established and followed. BerryDunn selected two months for testing, March of 2018 and April of 2019 because spring is the busiest certification time.
- Requested a listing of city projects that were completed within the period and reviewed the list to identify how many cities did not meet their goals, and what the variance was. This was our total population for our monitoring testing sample.
- Reviewed DSBO policies and procedures, and compared them to the established ordinance to determine if they are aligned.
- Reviewed current DSBO practices, and identified if documented policies and procedures are in place and followed.
- Compared current DSBO practices to the ordinance and its promulgated rules and regulations to determine if they are aligned.
3.0 Findings

Finding 1

DSBO policies and procedures are not in alignment with the M/WBE/DBE ordinance, not documented, and/or not implemented in a way that maximizes control effectiveness.

The City’s M/WBE/DBE program is authorized and governed by adopted ordinance, with Rules and Regulations promulgated for the interpretation, administration, and enforcement of the M/WBE/DBE ordinance. To determine whether policies and procedures were aligned with the ordinance, BerryDunn reviewed available policies and procedures, interviewed DSBO staff, and compared policies and procedures to the ordinance. To gain an understanding of DSBO practices, BerryDunn reviewed documentation and reports and interviewed DSBO staff, certified subcontractors, and prime contractors. The firm also interviewed several cities and counties as a benchmark by which to compare DSBO practices.

BerryDunn analyzed the ordinance and its accompanying Rules and Regulations to assess whether policies and procedures are in alignment. The firm reviewed the following documentation: 1) Chapter 28, Article III of the Denver Revised Municipal Code (D.M.R.C.), 2) Rules and Regulations for the Interpretation, Administration, and Enforcement of Chapter 28, Article III of the D.M.R.C.

DSBO disbanded and replaced the Goals Committees.

In February 2019, DSBO disbanded the three Goals Committees, which were designated by project type: General Construction, Heavy Highway, and Professional Design and Construction Service. The Goals Committees were nine-member committees responsible for setting M/WBE/DBE participation goals based on information provided by the applicable procuring department. In February 2019, DSBO disbanded the Goals Committees, implemented a new process, and eventually created the role of goals analyst, who develops and submits the goals to the DSBO Director’s Office for approval. DSBO did not update policies and procedures to reflect the new process, due to deprioritization in anticipation of a new ordinance. Upon ordinance approval, DSBO stated that they will document all updated procedures to align with the new ordinance.

Through interviews with DSBO staff, BerryDunn found that the new process does not align with Rule V, Part A of the Rules and Regulations. The Rules and Regulations state that the director may appoint a goals committee to assist in the setting of MBE/WBE goals. DSBO implemented a new practice but did not create policies and procedures regarding the change.

The changes of the goal-setting process—without established policies that align with the ordinance and the accompanying rules and regulations could lead to unclear and inconsistent practices.

Recommendation 1.1
Update procedures to be in alignment with the ordinance and the rules and regulations – BerryDunn recommends DSBO work to ensure that practices within the division are in alignment with the adopted ordinance and its accompanying rules and regulations. Furthermore, BerryDunn recommends DSBO work with elected officials to update the adopted ordinance as needed.

DSBO has not adopted policies and procedures to consistently apply the requirement for compliance plans.

The currently adopted Rules and Regulations permit the use of compliance plans only for projects that meet specific criteria, unless otherwise authorized by the director. Section 28-60 of the Denver Revised Municipal Code provides that for contracts secured through a competitive selection rather than competitive bid, a requirement to address the project goal by means of a compliance plan is permissible. Competitive selection allows the City to secure contracts for construction, reconstruction, or remodeling of general public improvements where it has been determined it is in the City’s best interest to award the contract based on selection criteria other than lowest cost.15 Competitive bid allows for procurement by the lowest-cost responsive bidder.

A compliance plan is a means for a contractor to detail how it will utilize certified businesses when the scope of a project is not defined, which typically occurs for on-call construction contracts. The proposed compliance plan details how the contractor will provide opportunities for MBE/WBE participation via community outreach, dividing scopes of work into economically feasible units for the certified businesses, and a detailed methodology of how the contractor will meet project goals.16

Rule VI Sec. D (2) of the Rules and Regulations lists the conditions that must be met in order to address the project goal by means of a compliance plan, unless otherwise authorized by the director:

a. “The project solicitation must be issued under the authority of either Section 2.3.3 (A) or 2.11.3 (B) of the City Charter;
b. The project solicitation must include the procurement of construction services.
c. At the time of the solicitation the project design must not be complete or at a level of completeness allowing for final competitive pricing proposal; and
d. The project solicitation must not require a lump sum price proposal for the construction of the project upon which a contract award will be made.”

Based on interviews conducted with DSBO staff, BerryDunn discovered that compliance plans are required for other projects in addition to projects that meet the above conditions. DSBO has

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15 Denver Revised Municipal Code Chapter 20, Article IV, Sec 20-56
16 Rule VI Sec. D of the Rules and Regulations
no written policies and procedures nor a methodology to govern when projects that do not meet the above conditions shall require a compliance plan.

DSBO made procedural changes following the hiring of new management staff in the spring of 2019. However, because of competing priorities and anticipated ordinance changes, DSBO has not updated its policies and procedures to reflect the changes.

The absence of procedures to help ensure the consistent requirement and use of compliance plans permits the inconsistent application of practices and requirements across contracts. This can result in additional burden on contractors and inconsistent use of subcontractors due to scopes of work not being consistently divided into individual economically feasible units within compliance plans.

**Recommendation 1.2**

**Further develop written policies to govern the use of compliance plans** – BerryDunn recommends DSBO develop and adopt written policies regarding the requirement of compliance plans for projects that do not meet the conditions, in order to uniformly apply a requirement for compliance plans.

DSBO has not adopted policies and procedures to utilize the sanctioning authority granted by the ordinance for complying with what is outlined in project-specific compliance plans.

DSBO has sanctioning authority as a recourse should a contractor fail to comply with any material term or condition of an approved compliance plan or an applicable provision of the ordinance or any of the Rules and Regulations promulgated pursuant to the ordinance.17

Based on interviews with DSBO staff, BerryDunn concluded that policies and procedures for utilizing the sanctioning authority granted by the ordinance do not exist.

Previous DSBO management established this practice, and DSBO has not documented or updated procedures in anticipation of the new ordinance.

Rules and Regulations, Rule VI, (D) (6) states the sanctioning authority granted to DSBO.

The absence of policies and procedures to utilize the sanctioning authority of the ordinance can cause sanctioning to be an underutilized option in enforcing compliance with an approved compliance plan. Over time, underutilizing the sanctioning authority included in the ordinance could degrade the effectiveness of the program by not sanctioning appropriately for failure to meet project goals and not fully administering a program that leads to utilization of certified firms.

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17 Rule VI Sec. D of the Rules and Regulations
DSBO does not have policies and procedures to utilize the sanctioning authority of program compliance granted by the ordinance.

Section 28-77 of the ordinance grants sanctioning authority to DSBO for various compliance-related issues related to the administration of the program. The sanctioning authority provides for the City to exercise rights including, but not limited to, withholding funds, imposing monetary penalty, suspending or terminating, contained in the terms and conditions of the contract or purchase order.

Based on interviews with DSBO staff, BerryDunn determined that policies and procedures for utilizing the sanctioning authority do not exist.

Previous DSBO management established this practice, and DSBO has not documented or updated procedures in anticipation of the new ordinance.

The absence of policies and procedures to utilize the sanctioning authority of the ordinance can cause sanctioning to be an underutilized option in enforcing compliance. Over time, underutilizing the sanctioning authority included in the ordinance could degrade the effectiveness of the program by not sanctioning appropriately for failure to meet project goals and not fully administering a program that leads to utilization of certified firms.

Recommendation 1.3

Develop policies and procedures to enable practical usage of the granted sanctioning authorities – BerryDunn recommends DSBO develop written policies and procedures to provide for uniform utilization of the granted sanctioning authority.

DSBO does not monitor and enforce execution of letters of intent as written and submitted.

Letters of intent are written communication from a project bidder to the City evidencing an understanding between the bidder and a certified business that the parties will enter into a contract for the certified business to perform specific scopes of work on a City contract. In order to complete a letter of intent, a bidder communicates with a certified business and comes to an agreement on the work to be performed and the compensation. The bidder fills out the letter of intent form, which requires a description of work to be performed by the certified business, and the compensation amount expressed as a dollar value or as a percentage of the City contract. The letter of intent shall be completed and submitted at the time of proposal submission or prior to bid opening.

In the course of interviews with DSBO staff and certified businesses, BerryDunn discovered that letters of intent are not consistently executed to the agreed-upon financial amount or

18 Denver Revised Municipal Code Chapter 28, Article III
percentage, and, in some cases, businesses listed on submitted letters of intent are not utilized for any work during the contract. According to section 28-75 of the ordinance, it is a potential violation to:

(1) “Fail to in fact utilize an MBE or WBE that was originally listed at bid opening or at proposal submission in order to satisfy the project goal, and that submitted a timely letter of intent, without substituting another MBE or WBE performing the same commercially useful function and dollar amount, or demonstrating each element of modified good faith efforts, as defined in subsection (c) hereof, to substitute another MBE or WBE”

A modified good faith effort is required for a contractor to prevent a material breach of contract as quoted in the ordinance section above. A modified good faith effort is the way in which a contractor communicates with and petitions to DSBO to avoid noncompliance with a contract. Modified good faith efforts are required when a contractor must add, replace, or terminate an MBE or WBE, or in the event of changes to the scope of work for the contract that causes the contractor to be in noncompliance with the original project goal. In order to satisfy the requirements of a modified good faith effort, a contractor must meet the four categories stated in the ordinance, all of which require written documentation submission to DSBO. During interviews with the aforementioned parties, BerryDunn discovered that contractors have attempted to meet the MBE or WBE goal percentage without consideration for the letter of intent for specific certified businesses, and contractors have substituted subcontractors without intervention and approval from DSBO.

DSBO procedures require letters of intent for scopes of work even if the scope is not defined. Although DSBO’s lack of enforcement of letters of intent is uniform, this problem is particularly pronounced with “on-call” contracts19 where the value of specific tasks is not known, and the prime contractor listed a percentage on the letter of intent that might be inaccurate after the amounts of specific tasks are determined. DSBO is changing the policy to require letters of intent only on contracts for which the dollar value is clearly established.

Section 28-75 establishes the potential violations, one of which is failure to utilize the MBE/WBEs listed at bid opening. Per the ordinance, DSBO has enforcement responsibilities and sanctioning authority if the letters of intent are not met.

The lack of ongoing monitoring related to the letters of intent can compromise program effectiveness and result in projects not meeting the overall goal.

| Recommendation 1.4 |
| Develop policies and procedures to enforce letters of intent – BerryDunn recommends DSBO create consistent documented policies and procedures aligned with the ordinance to...

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19 On-call contracts have a maximum contract value, but specific tasks and values are unknown at the time of procurement.
prevent substitution or termination of a certified business without adherence to the modified good faith effort provisions.

Certification and Recertification procedures do not include time frames to help ensure process uniformity.

DSBO is responsible for certifying and recertifying businesses for participation in the M/WBE/DBE program. Section 28-34 of the Denver Revised Municipal Code requires DSBO to establish uniform rules, regulations, procedures, and criteria for the certification and renewal of MBE/WBE/DBEs. To assess the adequacy of the certification and recertification process, BerryDunn interviewed DSBO staff.

DSBO staff stated they have not adopted formal policies and procedures regarding the time permitted to process a certification or renewal. Additionally, there is no guidance for the length of time that business recertification applicants have to respond to additional data requests before their application is closed or denied.

DSBO has not established and documented the procedures in anticipation of ordinance changes.

The lack of uniform standards allows ambiguity of interpretation among the staff, which prevents them from planning their certification and recertification work, which in turn results in inconsistent and delayed processing times. Inconsistent processing times leads to businesses requesting extensions to their certifications, which DSBO will sometimes grant, which undermines the purpose of scheduled renewals. Lastly, inconsistent or delayed processing time can prevent new businesses from qualifying to be included as certified subcontractors.

Recommendation 1.5

Develop policies and procedures to establish allowable time frames for the certification process – BerryDunn recommends DSBO develop and implement policies and procedures that help ensure process uniformity by documenting the permissible time frames for the certification and recertification process.

DSBO does not have procedures to maintain compliance with Disadvantaged Business Enterprise program federal regulations.

DSBO handles the certification and monitoring of the DBE program; however, the program has federal requirements and a specific requirement regarding the monitoring of DBE participants as stated in 49 C.F.R. 26.55 (g). It is not permissible to count the dollar value of work toward the overall goal after the firm has ceased to be certified.

Interviews with DSBO staff, and an observation of the B2G system, indicated that DSBO staff were not aware of the scope of B2G functionality and the requirement to monitor DBE certification validity during the term of the contract. BerryDunn also found that no procedures
exist to help ensure that DBE participants with expired certification are not counted toward the overall goal.

The lack of control in place might result in noncompliance with federal regulations. Reporting on goal progress could be incorrectly calculated, resulting in issues when or if the miscalculation is later discovered.

**Recommendation 1.6**

**Develop and implement procedures to track expiration of certifications** – BerryDunn recommends DSBO develop and implement procedures to track the expiration of DBE certifications throughout the term of a contract. Additionally, BerryDunn recommends that DSBO work to ensure that certification and contract compliance staff are trained in the functionality of the B2G system that performs this task.

**Finding 2**

**DSBO does not utilize the system, B2G, to its full capacity or in a way that maximizes program effectiveness.**

DSBO utilizes B2G to perform all administrative functions regarding certifying, goal setting, and monitoring of businesses. In order to establish criteria against which to assess DSBO, BerryDunn met with B2G staff to identify what capabilities are available within B2G. BerryDunn also selected benchmark cities so the firm could evaluate how effective B2G is in maximizing program effectiveness.

BerryDunn interviewed a representative of the following cities and counties to identify their processes to certify businesses, create goals, and monitor the goals. These cities and counties were identified as comparable to the City.

- City of Phoenix, Arizona
- City of St. Paul, Minnesota
- City of Tampa, Florida
- County of Hillsborough, Florida

DSBO tracks contract performance by receiving and reviewing payment information for each contract. DSBO utilizes two different methodologies for receiving payment data, depending on the type of contract. Workday and Textura are the two systems that interface with B2G. Most of the contracts BerryDunn reviewed as part of the audit used Workday, although the City has started using Textura and has increased its usage in the last two years. However, it is BerryDunn’s understanding that the City now uses Textura on all larger construction contracts other than professional services, emergency construction, and in cases where using Textura is not financially feasible. If a contract utilizes Textura to track progress of work completed and payments to the prime and tier one subcontractors, then data is automatically uploaded from Textura monthly into B2G. The payment amounts for prime and tier 1 subcontractors are
already approved in Textura by the prime and subcontractor prior to being uploaded to B2G. Workday is the City’s enterprise resource planning system. While all payments are tracked in Workday, only those projects that do not use Textura have payment data imported from Workday to B2G. If payments are tracked in Workday, the total payment amount made to the prime contractor is uploaded into B2G. This is not an automatic process as it is with Textura but instead requires manual assistance by DSBO staff. After the total payment to the prime populates into B2G from Workday, the prime and subcontractors must go into the system each month to input the payments to the subcontractors and approve the payment amounts.

BerryDunn conducted interviews to identify how DSBO uses B2G and identified a risk regarding the tracking and monitoring of contractor payments.

BerryDunn conducted informational interviews with the cities listed above to identify best practices and areas for improvement. These interviews revealed areas of strength, as well as opportunity for improvement, in DSBO operations. BerryDunn discovered that the majority of cities did not have automated interfaces into B2G, but two cities stated they had internal projects underway to establish an interface connection between the relevant enterprise resource planning system and B2G.

The project goal-setting process varies by city, and BerryDunn found that all cities used slightly different data sources to set the goal percentages. DSBO has data from the recently conducted disparity study that helps DSBO identify and set goals. Some cities had not conducted a disparity study in nearly a decade. DSBO has the ability to make data-driven decisions and set goal percentages based on this recent data.

BerryDunn also found a variety of ways that cities managed the bidding process. One city creates a list of certified firms that must be contacted as part of the bidding process based on the industry classifications of the scopes of work on the project.

The contract compliance monitoring process is one area that did not vary greatly from city to city. BerryDunn found that the difficulties in the contract compliance process were rather similar across the cities. One difficulty included working to ensure that prime and subcontractors verify payments in B2G. BerryDunn did find that some cities required all subcontractors be tracked in B2G, regardless of whether the subcontractor was certified, and the prime contractor’s compliance with this tracking affects payment processing.

**DSBO does not withhold pay or enforce any sanctions if a prime or subcontractor does not verify the payment amount. This lack of enforcement increases control risk of providing inaccurate payment amounts and improper accounting for goal percentages.**

Whether payments come in through Textura or Workday, if there are additional subcontractors being used, such as tier 2 or tier 3 subcontractors, payments to those subcontractors must be identified and manually tracked within B2G. There is a risk that DSBO is not aware of all payments to tier 2 and tier 3 subcontractors on a contract, which would result in an inaccurate calculation of the goal percentage.
The lack of enforcement described above is caused by a lack of controls and consistency regarding the payment and data input processes. It is possible that B2G could have inaccurate data and report on lower or higher percentages than the prime actually utilized.

### Recommendation 2.1

**Increase controls around payment input** – BerryDunn recommends DSBO utilize enforcement mechanisms, such as holding pay, requiring payment support, or imposing a sanction of prime contractor and subcontractors if payment information is not accurately and consistently reported.

Certified subcontractors who use a non-certified firm are not automatically being required to input this data into B2G.

At the beginning of a new project, the prime contractor must report and input all certified subcontractors into B2G. Contracts that use Textura only confirm tier 1 subcontractors prior to the information being uploaded into B2G. Workday relies on the prime and subcontractors to self-report payments to subcontractors. DSBO stated that the prime is responsible for ensuring accurate payment reporting; however, there is no control in place that prevents a certified firm from not reporting the use of a subcontractor(s) throughout the term on the contract.

The recording of tier 2 subcontractors is necessary, because certified firms utilizing non-certified subcontractors cannot count this work toward the project goal.

There is a risk that certified firms are utilizing non-certified firms as tier 2 subcontractors, and this fact is not being reflected in the reporting, undermining the premise of the M/WBE/DBE program.

### Recommendation 2.2

**Work to ensure that tier 2 and 3 subcontractors are captured in B2G** – BerryDunn recommends that DSBO require subcontractors to have the same responsibility as prime contractors to report payments to subcontractors, to help ensure that M/WBE/DBE goal percentages are properly calculated. Any additional controls implemented should be required of both prime contractors and subcontractors.

DSBO utilizes payment data from Workday for City projects that do not meet the criteria to use Textura, such as smaller construction projects and professional service contracts. The process for these contracts is for DSBO to pull data from B2G and export it into a spreadsheet. This spreadsheet includes all new contracts from the previous month that have a goal assigned. DSBO then sends this list to General Services. General services then manually flags the new contracts in Workday so that DSBO can then track project utilization.

**Coordination with Workday includes manual processes, increasing the opportunity for error.**
The coordination with General Services includes manual processes. These could allow for error in uploading payment information from Workday into B2G, potentially resulting in DSBO having inaccurate information. Projects could be haphazardly excluded during this process, which would then affect the payment data being reported in B2G.

This process was in place prior to current DSBO management. DSDO is currently reviewing possible solutions.

An additional control to help prevent inconsistencies between Workday and B2G, given the manual nature of the data transfer practices, would be to have DSBO conduct a comparison of B2G to Workday on a regular basis. Currently DSBO reviews the total contract value in B2G and compares it to Workday only at the end of the contract.

This Workday to B2G process been the practice at DSBO, and DSBO has not previously considered the risk and increased opportunity of control.

**Recommendation 2.3**

**Automate the Workday to B2G data-transfer activities** – BerryDunn recommends that DSBO continue to research alternate and automated solutions to improve tracking Workday payment data in B2G.

**Recommendation 2.4**

**Increase the controls regarding payment verification of Workday data** – BerryDunn recommends a regular, such as quarterly, comparison of data in Workday to data in B2G as a monitoring activity.

Within B2G, all payments are manually confirmed by prime and subcontractors unless already confirmed in Textura. BerryDunn understands there are times that DSBO staff need to update data after it has already been approved; however, this process lacks controls.

**DSBO staff have ability to access and update prior-month data that prime contractors and subcontractors have already approved.**

DSBO has not previously identified this process as a control risk. DSBO staff could accidentally change a prior-month’s approved payment information, leading to inaccurate information. All contractors are listed, and it would be an easy mistake to haphazardly update the wrong data.

**Recommendation 2.5**

**Increase the controls in B2G for approved payments** – BerryDunn recommends working with B2G to add another layer of controls over changes to previously confirmed payment information.
Certified businesses added during the contract term are not counted toward project goal.

During the audit period, BerryDunn observed that subcontractors not already listed on a letter of intent for a contract are not counted toward the M/WBE/DBE goal unless there is an approved modified good faith effort document from the prime contractor.

Through testing, BerryDunn identified 2 out of 10 contracts that did not meet their project goal because the prime contractors utilized a certified business not included in the original contract via the letter of intent. This change of the certified businesses utilized resulted in the work performed by these certified business not being counted toward the project goals.

This issue was caused by prime contractors changing the certified businesses being utilized as subcontractors during the term of the contract. DSBO does not uniformly enforce the modified good faith effort requirements of the ordinance. The ordinance has specific conditions that must be met to demonstrate a good faith effort as well as requirements for documentation being submitted to DSBO. If the modified good faith effort requirements and documentation requirements are not enforced, then prime contractors do not have an incentive to maintain compliance with this part of the ordinance. However, DSBO would ultimately be reporting on inaccurate use of certified firms and compliance with goal percentages.

This results in a discrepancy between the City contract administrators’ understanding of the goal percentage and the calculated goal percentage that DSBO has in B2G.

Recommendation 2.6

**Work to ensure that good faith efforts are enforced and that DSBOs project goal calculation is understood as the official tabulation** – BerryDunn recommends that DSBO develop policies and procedures to uniformly enforce good faith effort documentation. Additionally, BerryDunn recommends DSBO work with elected officials to change the ordinance to require approval prior to prime contractors removing or adding certified businesses after the contract has initiated. Lastly, BerryDunn recommends that DSBO work with City departments to help all parties understand that DSBO’s calculation of the project goal is the official record.

DSBO is unable to compile accurate compliance reports.

Throughout this audit, it was difficult for DSBO staff to provide a list of contracts for a specific time frame as well as an accurate list of projects that did not meet their goals.

There is a concern that there is a lack of knowledge of reporting functionality in B2G and that review of such reports to verify accuracy and completeness is insufficient. These reports compile project goal compliance data and are useful for reporting on compliance and obtaining an understanding of the overall compliance with the M/WBE/DBE program.
During review of the M/WBE/DBE program, BerryDunn contacted other governments that use the B2G system and was told they have not experienced issues with reporting in B2G. The majority of contacts also stated they routinely attended the B2G in-person training that is held annually.

A lack of understanding of the reporting functionality in B2G and the limited review of such reports could lead to an inaccurate assessment of the number of businesses meeting the project goals. This also indicates a lack of general knowledge of the B2G system.

**Recommendation 2.7**

**Work to ensure that DSBO staff who use B2G are provided training resources** – BerryDunn recommends that DSBO staff who use B2G be provided system training, especially the reporting functionalities within B2G. DSBO should consider sending members overseeing the use of B2G to the in-person training, if feasible.

**Finding 3**

**DSBO is not in compliance with program and project monitoring requirements.**

The goal-setting process is one component of the City’s overall economic development program and is responsible for evaluating assigned project goals for the MBE and WBE contracting program. To determine potential gaps related to monitoring project goals, BerryDunn interviewed contractors, examined City ordinances, DSBO’s rules and regulations and the division’s processes, and tested a sample of City projects.

BerryDunn requested a list of all City projects with an M/WBE/DBE goal, completed from January 1, 2018 – December 31, 2019. BerryDunn received a list of 89 projects that ended during the period including 30 projects that did not meet their goals. The firm selected a sample of 10 projects from the population of 30 by randomly selecting nine projects and one project with the highest percentage difference between the goal percentage and the percentage achieved. For the 10 selected projects we requested contract-monitoring support. BerryDunn tested the methodology used to determine and monitor the project goals for these projects and verified performance.

BerryDunn verified performance by review of the following documentation:

- Confirmation by the prime contractor and subcontractor of final payment amounts at the contract conclusion
- Correspondence between DSBO and the contractor regarding good faith efforts (if applicable)

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20 Denver Revised Municipal Code § 28-34
21 Four prime contractors and two certified subcontractors were contacted for interviews
• Correspondence sent by DSBO to the contractor regarding goal progress
• Correspondence sent by DSBO to the contractor regarding missing the goal
• The listing of certified firms from the letter of intent provided with the prime contractor’s proposal

Through research, BerryDunn discovered that DSBO is not in compliance with program- and project-monitoring activities.

**Significant number of projects did not meet project M/WBE/DBE goals.**

BerryDunn analyzed the list of all City projects with an M/WBE/DBE goal, completed from January 1, 2018 – December 31, 2019. The firm found that 30 out of 89 (34%) contracts completed in the period did not meet the M/WBE/DBE goal that was determined at the start of the contract. The noncompliance rate could be attributed to control gaps in documentation of good faith efforts, failure to count M/WBE/DBE subcontractors toward meeting contractor goals, and gaps in policies and procedures for guidance of staff. The high number of project failures to meet goals increases contract monitoring activity workload and might decrease program effectiveness and reduce the division’s ability to meet program goals.

BerryDunn reviewed the monitoring activities of the sample contracts that did not meet their goals, to determine whether consistent practices were followed.

**A selected project was not monitored for goal progress**

For one project out of the selected sample of 10 (10%), it appeared the contractor was not going to meet the project goal. BerryDunn’s review of DSBO’s processes identified that DSBO sends correspondence to the contractor regarding goal progress. However, there was no support to show that DSBO communicated in this case to identify a solution prior to the closing of the contract. BerryDunn also learned that contract monitoring staff are assigned over 400 contracts per person. The noncompliance rate could be attributed to workload consisting of too many contracts to adequately monitor each one, gaps in policies and procedures for guidance of staff, and control gaps in documentation of outreach activities. DSBO might not be communicating with all projects that appear are not going to meet their goals. DSBO follow-up would have provided the opportunity to identify solutions and resolve problems with contractors before they fail to meet their project goals.

**Recommendation 3.1**

**Improve monitoring of goal performance and increase outreach** – BerryDunn recommends DSBO evaluate the goal-monitoring process and improve its controls related to tracking goal performance and outreach to contractors that are active and appear to not be meeting their goals.

**Recommendation 3.2**
Documentation of monitoring activity controls – BerryDunn recommends that, after DSBO identifies the most effective use of letters of intent and good faith efforts, DSBO document the procedures and train staff.

**Recommendation 3.3**

**Evaluate staffing needs and workload of monitoring activities** – BerryDunn recommends DSBO evaluate and reduce the number of contracts assigned to each compliance staff member to allow effective monitoring.

Two sampled projects were not monitored by DSBO for goal progress or failure

BerryDunn’s review of the City ordinances\(^{22}\) identified that a contractor must complete modified good faith efforts when adding or replacing a subcontractor. For 2 out of 10 (20%) of projects tested, a prime contractor added a certified subcontractor partway through the project, but the contractor did not complete modified good faith efforts to include the subcontractor. Therefore, the subcontractor was not included on the goal progress calculation. There was no support to document outreach by DSBO regarding the contractor’s progress or failure to meet the goal. The error rate could be attributed to workload consisting of too many contracts to adequately monitor each one, gaps in policies and procedures for guidance of staff, and control gaps in documentation of outreach activities. DSBO follow-up would have provided the opportunity to resolve the goal progress issue.

**Recommendation 3.4**

**Improve monitoring activity controls** – BerryDunn recommends DSBO work to ensure letters of intent are executed as written and submitted. DSBO should monitor contracts to assess whether the proposed certified firms are utilized. When DSBO identifies a subcontractor that is receiving payments and was not previously included in the contract, BerryDunn recommends DSBO work with the contractor to obtain a documented good faith effort, so the certified firm’s work can be counted toward the goal percentage.

Supporting documentation not sufficient to confirm monitoring activities

Through research, BerryDunn discovered that supporting documentation was not sufficient to confirm that all monitoring activities of projects were completed. BerryDunn was unable to confirm that DSBO conducted all monitoring procedures for 9 projects out of 10 (90%) tested.

\(^{22}\) Denver Revised Municipal Code § 28-75
because the information was not available. There was no support to document outreach by DSBO regarding final payments to subcontractors, good faith efforts, goal progress, or failure to meet goals. The support for this was from several years ago, and with the change in leadership, the practice of saving and maintaining contract documentation was not consistent. DSBO follow-up would have provided the opportunity to identify solutions and resolve problems with contractors before they fail to meet their project goals.

Findings 4

DSBO is inconsistent in its response times and renewal practices for certifying and recertifying businesses.

DSBO is responsible for reviewing subcontractor applications and determining whether the subcontractor meets the requirements to be a certified firm. DSBO uses what is outlined in the ordinance as criteria against which to review applications. Both the subcontractors and DSBO certification staff use B2G during the certification process. The subcontractors submit their applications and supporting documentation into B2G. After the DSBO certification intake analyst confirms all the required support is received, the application is considered “received” by DSBO. The certification supervisor then assigns each application to an analyst within B2G. Reports are generated to show each analyst’s assigned application. Analysts verify the information submitted is performed for both a new certification and a renewal. If analysts have questions after they start conducting their reviews, they communicate with the subcontractor within B2G. The analysts then verify the support is complete and determine whether the subcontractors meet the requirements for the applied certifications.

Every Thursday the certification team meets to discuss certified or denied cases. If an applicant is denied, both the assistant director and director of DSBO review the application and the director then signs the denial letter. If the subcontractor is certified, the system automatically notifies the subcontractor.

DSBO has established a goal to determine certification status within 35 calendar days; however, this is not a documented timeline.

Recommendation 3.5

Improve documentation of monitoring activities – BerryDunn recommends DSBO document monitoring activities performed and develop a consistent document management mechanism that allows verification and confirmation of completed tasks.

23 Denver Revised Municipal Code § 28-55
BerryDunn identified an instance in which the established procedures outlined in the ordinance and explained by the certification supervisor were not followed. The timelines for responding to applicants were also delayed, and no uniform response time was established.

BerryDunn selected two months of certifications that were processed or denied, March 2018, and April 2019. DSBO staff identified the spring as the busiest time for certification activity. This selection yielded a population of 205 certified firms. We selected 10 of the certified firms, and selected the entire population of four businesses that were denied certification during the audit period. BerryDunn reviewed the four applications to confirm that support was submitted and reviewed and the decision was documented within the B2G system. BerryDunn reviewed the processing time between the date DSBO received the application and the time the response was provided to the subcontractor. BerryDunn identified a large gap between the time the application was submitted and the time the decision was made and the applicant was informed.

All four (100%) of the denied subcontractors tested within the audit period experienced a six-month waiting period from the time the application was submitted and accepted by DSBO staff until the denial decision was issued.

The ordinance states that DSBO shall “establish reasonable procedures and methods for the certification of applicant business enterprises in order to effectuate the purposes of this division”. As previously noted, DSBO did not document or track the expected processing time of applications as it relates to certifying applications. Based on interviews with the certification supervisor, BerryDunn understands that DSBO is working toward having a more documented timeline that will be uniform across certification analysts. BerryDunn was not able to confirm this change as of the date of the audit.

Three of the subcontractors were applying for M/WBE certification, and the fourth subcontractor was applying for DBE. The three M/WBE businesses applied in June or August and did not hear back until March or April of the following year. One was denied due to lack of responsiveness, and the other two did not meet the certification requirements. The applicant applying for DBE certification submitted the application in April 2017 and did not receive a response until March of 2018. The denial was because of lack of responsiveness.

The delay in responding to the certification can be caused by non-responsiveness from the applicants or by certification analysts waiting on confirmation or clarification of information.

There are significant impacts related to holding applications and attempting for over six months to contact a firm that does not meet certification criteria. It consumes time that DSBO staff could be using to assist firms that do meet certification criteria. Additionally, if the firm was applying with a specific project in mind, prime contractors might be waiting for the firm to receive its certification. Procurement activities could be delayed if a prime contractor proposes on a project and then finds out the subcontractor was not certified.

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24 DSBO Ordinance Section 28-55
Seven of the 10 sample certification cases tested had a lapse in eligibility due to the delay in responding to the certification application or a delay from the subcontractor to submit a recertification application.

BerryDunn understands that, within the audit period, the process changed to having automatic notifications sent to certified businesses when their certifications are about to expire. Previously, this was a manual notification process. Of the 10 sample certification cases tested, four had a lapse in eligibility because DSBO staff took several months to recertify the business. In three of the cases, the subcontractor did not submit its application until its certification already expired.

A lapse in eligibility could be caused if the applicant is non-responsive or if processing the application takes extra time. For the cases BerryDunn reviewed, it was unclear why there was a long processing time.

The delay in responsiveness causes contractors to lose their certification, and it could prevent them from being included in a new project as a certified firm.

Renewal dates were set to expire one year from the date they were certified. BerryDunn understands DSBO plans to move all renewal dates to the last day of the certification month. Changing the renewal date will allow renewal notices to be sent in batches and allow a more efficient process of notifying businesses.

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<tr>
<th>Recommendation 4.1</th>
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<tbody>
<tr>
<td><strong>Establish and enforce a deadline for processing certification applications</strong> – BerryDunn recommends that DSBO continue to use an automated and proactive approach when reaching out to businesses that need to recertify. BerryDunn also recommends training of staff to enforce a faster and more-uniform decision timeline for responding to applications.</td>
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</table>

During the audit period, 254 subcontractors received an extension, which is inconsistent with normal certification procedures.

Subcontractors are required to recertify every year in order to keep their certification status active and bid on new projects. The established process is that a subcontractor submits a renewal application, and the DSBO certification team is responsible for reviewing the provided support to determine the business still qualifies.

During conversations with DSBO, BerryDunn identified that businesses often call in to ask for an extension of their certifications. During the period of January 1, 2018 – December 31, 2019, DSBO granted extensions to 254 subcontractors.

An extension could allow a certified subcontractor the amount of time needed to bid on a new project. As long as the subcontractor is certified at the time of the proposal and bid, DSBO allows the subcontractor to remain on the contract as a certified firm for the duration of the project.
This practice has been inconsistent at DSBO. Because DSBO did not want certified firms to lose certification, it would grant extensions. DSBO did not identify documented procedures and allowed analysts to provide extensions without approval.

Allowing subcontractors extensions is an inconsistent process and gives DSBO discretion, rather than requiring DSBO to follow the renewal procedures in place and requirements set forth in the ordinance. Without going through the renewal process, DSBO cannot confirm that the certified firm is still eligible for the certifications the contract was previously made eligible for.

**Recommendation 4.2**

**Remove the option to provide certification extensions** – BerryDunn recommends that DSBO follow the established renewal process for all subcontractors and not grant extensions upon request.

### Finding 5

**The DSBO goal-setting process is inconsistent and does not maximize program effectiveness.**

The goal-setting process is one component of the City’s overall economic development program. DSBO is responsible for establishing project goals for the M/WBE/DBE contracting programs. To determine potential gaps related to assigning project goals, BerryDunn interviewed contractors, examined City ordinances, DEDO’s and DSBO’s rules and regulations and the division’s processes, and tested a sample of City projects.

BerryDunn requested a list of all City projects with an M/WBE/DBE goal, completed from January 1, 2018 – December 31, 2019, and conducted an analysis of the certified businesses meeting their project goals. Through this analysis, BerryDunn discovered that DSBO changed the process for determining and assigning goals during the audit period. Therefore, BerryDunn selected two sample months from before and after the modifications were implemented to compare the process for establishing project goals. The firm requested a listing of contracts with goals set in April 2019 and December 2019, and received a listing of 23 projects for April and 22 projects for December. BerryDunn selected eight contracts, including four projects from April 2019 and four projects from December 2019. We selected our sample by choosing the three contracts with the highest goal percentage, and the one contract with the lowest goal percentage for each month, excluding on-call contracts.

BerryDunn verified performance by reviewing the following goal-assignment methodology documentation for the eight projects sampled, including:

25 Denver Revised Municipal Code § 28-34
26 Four prime contractors and two certified subcontractors were contacted for interviews
1. A completed goal-setting form
2. A North American Industry Classification System code analysis for the City and the seven counties
3. B2G Goals Module analysis of contractor’s and subcontractor’s original and final availability
4. Historical data including the total number of similar previous projects, assigned goals average, and attained goals average
5. An average of all averages calculated in numbers 2 – 4

Through research, BerryDunn discovered that the methodology used for setting goals is inconsistent. Additionally, some assigned project goals did not maximize program effectiveness. However, the firm did also note that the City’s newly revised process for establishing project goals compares favorably to leading practices. The new methodology for determining and assigning projects is objective and well documented.

**DSBO did not document project goals analysis in B2G**

As part of the goal-setting process, DSBO conducts historical research utilizing the B2G database for previous City contracts of a similar nature and similar award size to identify scopes that might offer additional opportunity to certified MWBEs; however, DSBO did not document the information prior to the implementation of the Goal Determination Analysis Form. Three out of eight projects did not have documentation that a historical analysis was conducted. The lack of documentation was because of the change in goal-setting procedures and because the process was not formally identified and documented before the utilization analyst was assigned. Therefore, some goals might have been set too high or too low and cannot be reviewed to determine whether the methodology used for assigning the goal was accurate.

**DSBO did not assign project goals using the same goal-setting methodology.**

BerryDunn’s review of DSBO’s processes identified that DSBO uses an objective methodology for determining and assigning project goals. However, BerryDunn found that three out of eight projects did not follow the same goal-setting methodology. The project files did not have a B2G goals module analysis or an average calculated using all analyses conducted. The lack of information was because of the change in goal-setting procedures and because DSBO did not formally identify and document the process before the utilization analyst was assigned. Therefore, some project goals might have been determined inaccurately.

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<tr>
<th>Recommendation 5.1</th>
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<tr>
<td><strong>Improve goal assignment controls</strong> – BerryDunn recommends DSBO utilize a consistent goal-setting process and document goal-determination procedures to promote consistency among staff.</td>
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</table>

**Assigned project goals did not maximize program effectiveness**
BerryDunn’s review of DSBO’s processes identified that an objective methodology is, in fact, used for determining project goals. However, one out of eight (12.5%) reviewed projects included assigned goal percentages that were much higher than the percentages calculated in the goal-setting methodology. The project had an assigned goal of 35%, whereas, the North American Industry Classification analysis calculated was 5%; the B2G goals module reflected 27.75%; the historical average was 23%; and the average of all analyses was 18.6%. Therefore, the goal that was set was 17.4% higher than the average goal determined through the goal-setting process. The variance in the goal percent assigned was because DSBO utilized its discretion to select a higher goal because of the high-profile nature of the project. However, some projects might fail to meet their goals because the goals were inaccurately determined too high.

Recommendation 5.2

**Improve consistency of goal assignment methodologies** – BerryDunn recommends DSBO utilize the goal established by the goal analyst or stay within a range established by DSBO in order to prevent inconsistent goal setting.

**Finding 6**

**City purchasing controls for notifying DSBO are insufficient.**

DSBO is responsible for setting project goals for the M/WBE/DBE program, to help ensure DSBO uses M/WBE/DBE businesses on qualified City contracts across all departments. To determine potential gaps related to the process of assigning and monitoring project goals, BerryDunn interviewed City employees and contractors and examined City ordinances, DEDO’s and DSBO’s rules and regulations, and the division’s processes.

BerryDunn’s review of City ordinances identified that DSBO, in consultation with the purchasing division, assigns each project with an estimated cost of $1 million or more a goal for M/WBE utilization. However, there are no controls or methods in place to help ensure that all City projects with an estimated cost of $1 million or more are being sent to DSBO for review of whether a M/WBE goal should be assigned. Therefore, some projects that are eligible for MBE/WBE goals might not have those goals assigned to them.

DSBO has not recently updated the process in place.

Recommendation 6.1

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27 BerryDunn contacted four prime contractors and two subcontractors for interviews. Employees in the following departments were also contacted: City Airport, City DOT
28 Denver Revised Municipal Code § 18-126
Cooperate with other City agencies to improve City purchasing controls – BerryDunn recommends DSBO work with City officials and procurement to implement a method or control that would help prevent qualified projects from being procured without a goal established.
# 4.0 Recommendations

<table>
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<tr>
<th>No.</th>
<th>Description</th>
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<tbody>
<tr>
<td>1.1</td>
<td><strong>Update procedures to be in alignment with the ordinance and the rules and regulations</strong> – BerryDunn recommends DSBO work to ensure that practices within the division are in alignment with the adopted ordinance and its accompanying rules and regulations. Furthermore, BerryDunn recommends DSBO work with elected officials to update the adopted ordinance as needed.</td>
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<tr>
<td>1.2</td>
<td><strong>Further develop written policies to govern the use of compliance plans</strong> – BerryDunn recommends DSBO develop and adopt written policies regarding the requirement of compliance plans for projects that do not meet the conditions, in order to uniformly apply a requirement for compliance plans.</td>
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<tr>
<td>1.3</td>
<td><strong>Develop policies and procedures to enable practical usage of the granted sanctioning authorities</strong> – BerryDunn recommends DSBO develop written policies and procedures to provide for uniform utilization of the granted sanctioning authority.</td>
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<tr>
<td>1.4</td>
<td><strong>Develop policies and procedures to enforce letters of intent</strong> – BerryDunn recommends DSBO create consistent documented policies and procedures aligned with the ordinance to prevent substitution or termination of a certified business without adherence to the modified good faith effort provisions.</td>
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<tr>
<td>1.5</td>
<td><strong>Develop policies and procedures to establish allowable time frames for the certification process</strong> – BerryDunn recommends DSBO develop and implement policies and procedures that help ensure process uniformity by documenting the permissible time frames for the certification and recertification process.</td>
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<tr>
<td>1.6</td>
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<td>5.2</td>
<td><strong>Improve consistency of goal assignment methodologies</strong> – BerryDunn recommends DSBO utilize the goal established by the goal analyst or stay within a range established by DSBO in order to prevent inconsistent goal setting.</td>
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<td>6.1</td>
<td><strong>Cooperate with other City agencies to improve City purchasing controls</strong> – BerryDunn recommends DSBO work with City officials and procurement to implement a method or control that would help prevent qualified projects from being procured without a goal established.</td>
</tr>
</tbody>
</table>
AGENCY RESPONSE TO AUDIT RECOMMENDATIONS

May 29, 2020

Auditor Timothy M. O’Brien, CPA
Office of the Auditor
City and County of Denver
201 West Colfax Avenue, Dept. 705
Denver, Colorado 80202

Dear Mr. O’Brien,

The Office of the Auditor tasked BerryDunn to conduct a performance audit of Minority/Women and/or Disadvantaged Business Program.

AGENCY INTRODUCTION

I would first like to express my sincere appreciation of the thorough and professional work done by the audit team on the city’s Minority/Women and/or Disadvantaged Business Program, managed by Denver Economic Development & Opportunity’s Division of Small Business Opportunity (DSBO).

In preparation of the reauthorization of the DSBO Ordinance, we have been working with hundreds of community members and across city agencies to identify process improvements for the DSBO program over the last two years. The Ordinance reauthorization was approved by City Council on April 13, and the new ordinance was enacted on May 2, 2020.

This audit was being conducted concurrently with the finalization of the Ordinance, and during the time the DSBO Rules and Regulations were being revised to align with the new Ordinance. We are grateful for the collaboration with the City Auditor’s team during this time. It was reassuring to see the audit findings were very much in alignment with our findings, and many of the recommended improvements were already well under way.

This memorandum provides a written response for each reportable condition noted in the Auditor’s Report final draft that was sent to us on May 14, 2020. This response complies with Section 20-276 (c) of the Denver Revised Municipal Code (D.R.M.C.).

AUDIT FINDING 1

DSBO policies and procedures are not in alignment with the M/WBE/DBE ordinance, not documented, and/or not implemented in a way that maximizes control effectiveness.

RECOMMENDATION 1.1

Update procedures to be in alignment with the ordinance and the rules and regulations – BerryDunn recommends DSBO work to ensure that practices within the division are in alignment with the adopted ordinance and its accompanying rules and regulations. Furthermore, BerryDunn recommends DSBO work with elected officials to update the adopted ordinance as needed.
Narrative for Recommendation 1.1
DSBO agrees with Recommendation 1.1 and at the time of the audit, was already in the process of revising current Standard Operating Procedures or had plans to develop new ones to align with the new ordinance and Rules and Regulations. The new ordinance was enacted on May 2, 2020; prior to unanimous City Council vote to reauthorize the Ordinance, DSBO worked closely with the Mayor’s Office, City Council members, and City agencies to ensure the City was in alignment with the proposed changes.

RECOMMENDATION 1.2
Further develop written policies to govern the use of compliance plans – BerryDunn recommends DSBO develop and adopt written policies regarding the requirement of compliance plans for projects that do not meet the conditions, in order to uniformly apply a requirement for compliance plans.

Narrative for Recommendation 1.2
DSBO agrees with Recommendation 1.2 and in advance of the audit, DSBO was working with City Agencies to develop language within the Rules and Regulations regarding the requirement of compliance plans in alignment with the ordinance.

RECOMMENDATION 1.3
Develop policies and procedures to enable practical usage of the granted sanctioning authorities – BerryDunn recommends DSBO develop written policies and procedures to provide for uniform utilization of the granted sanctioning authority.

Narrative for Recommendation 1.3
DSBO agrees with Recommendation 1.3 and will continue with their already established plan that was develop with City Agencies and CAO prior to the audit to develop SOPs to provide mechanisms and...
direction for sanctioning contractors who fail to comply with the Ordinance and corresponding Rules and Regulations.

### RECOMMENDATION 1.4
**Develop policies and procedures to enforce letters of intent** – BerryDunn recommends DSBO create consistent documented policies and procedures aligned with the ordinance to prevent substitution or termination of a certified business without adherence to the modified good faith effort provisions.

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<td>05/02/20 - Complete</td>
<td>Mića Anderson</td>
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**Narrative for Recommendation 1.4**
DSBO agrees with Recommendation 1.4 and prior to the audit had implemented policies for termination/substitution for good cause within the new ordinance which requires a contractor/consultant to have good cause to request approval to terminate, substitute or reduce scope of an MWBE. DSBO in conjunction with the user department must provide concurrence and the reasons therefor stated in a written notification that the prime contractor has good cause to substitute or terminate the firm. There are 10 good cause reasonings for the intent to terminate, substitute or reduce scope; the Contractor/Consultant shall provide their justification for their good cause to the MWBE, DSBO and Department PM.

### RECOMMENDATION 1.5
**Develop policies and procedures to establish allowable time frames for the certification process** – BerryDunn recommends DSBO develop and implement policies and procedures that help ensure process uniformity by documenting the permissible time frames for the certification and recertification process.

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**Narrative for Recommendation 1.5**
DSBO agrees with Recommendation 1.5 and has added timeframes in the Rules and Regulations stating that a certification can take up to 90 days once the application is complete. This will include the intake, analysts, on-site review, committee and decision notification. DSBO is working on updating the certification standard and procedures with defined timelines and procedures for intake and completed applications.

### RECOMMENDATION 1.6
Develop and implement procedures to track expiration of certifications – BerryDunn recommends DSBO develop and implement procedures to track the expiration of DBE certifications throughout the term of a contract. Additionally, BerryDunn recommends that DSBO work to ensure that certification and contract compliance staff are trained in the functionality of the B2G system that performs this task.

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Narrative for Recommendation 1.6
DSBO agrees with Recommendation 1.6 and before the audit had developed a conversion plan and process and procedures to improve the tracking and monitoring of certification expirations. Specifically, DSBO is creating internal training on B2G system processes, adding internal staff reporting requirements inclusive of monthly reporting and timeline tracking dashboards.

AUDIT FINDING 2
DSBO does not utilize the system, B2G, to its full capacity or in a way that maximizes program effectiveness.

RECOMMENDATION 2.1
Increase controls around payment input – BerryDunn recommends DSBO utilize enforcement mechanisms, such as holding pay, requiring payment support, or imposing a sanction of prime contractor and subcontractors if payment information is not accurately and consistently reported.

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Narrative for Recommendation 2.1
DSBO agrees with recommendation 2.1 and at the time of the audit, had included as part of the Ordinance reauthorization; compliance enforcement requirements were incorporated for prime contractors and subcontractors regardless of tier to regularly provide information which includes but is not limited to payment received in current month, total payments received and past due invoices. DSBO will incorporate requirements in DSBO standard operating procedures as well as prime and subcontractor correspondence materials (i.e. deficiency notice, corrective action plans, forensic review) that DSBO reserves the right to count participation towards meeting the participation goal if prime or subcontractor is noncompliant in reporting to DSBO due to deficiencies in submitting required information and/or inaccurately detailing payment information. DSBO will remove credit if participation is reported incorrectly by the Prime or subcontractor.
RECOMMENDATION 2.2
Work to ensure that tier 2 and 3 subcontractors are captured in B2G – BerryDunn recommends that DSBO require subcontractors to have the same responsibility as prime contractors to report payments to subcontractors, to help ensure that M/WBE/DBE goal percentages are properly calculated. Any additional controls implemented should be required of both prime contractors and subcontractors.

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Narrative for Recommendation 2.2
DSBO agrees with recommendation 2.2 and had identified prior the priority to better track and monitor participation at all tiers and had begun meeting with B2G to implement. This addition was included in the new Ordinance compliance enforcement requirements and incorporated for prime contractors and subcontractors regardless of tier to regularly provide information which includes but is not limited to information for all tiers, contract information, subcontract agreements, invoices submitted, payments received and percent of work completed. DSBO will incorporate requirements in DSBO standard operating procedures as well as prime and subcontractor correspondence materials that DSBO reserves the right to count participation towards meeting the participation goal if prime or subcontractor is noncompliant in reporting to DSBO due to deficiencies in submitting required information and/or inaccurately detailing payment information.

RECOMMENDATION 2.3
Automate the Workday to B2G data-transfer activities – BerryDunn recommends that DSBO continue to research alternate and automated solutions to improve tracking Workday payment data in B2G.

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Narrative for Recommendation 2.3
DSBO agrees with Recommendation 2.3 and ahead of the audit DSBO was working with B2GNow System Administrators and Technical Services to improve the automated payment transfer from Workday to B2GNow, barring any budgetary constraints for implementation.

RECOMMENDATION 2.4
Increase the controls regarding payment verification of Workday data – BerryDunn recommends a regular, such as quarterly, comparison of data in Workday to data in B2G as a monitoring activity.
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Narrative for Recommendation 2.4
DSBO agrees with Recommendation 2.4 and had identified and begun revising, prior the audit, the Contractor’s Certification of Payment (CCP) form that is found monthly in Workday to require all tiers of certified participation are tracked. An internal DSBO policy will require that this form must be used to compare the data in B2GNow, at least quarterly.

RECOMMENDATION 2.5
Increase the controls in B2G for approved payments – BerryDunn recommends working with B2G to add another layer of controls over changes to previously confirmed payment information.

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Narrative for Recommendation 2.5
DSBO agrees with Recommendation 2.5 and will require formal documentation from the contractor requesting a change to previously confirmed payment information.

RECOMMENDATION 2.6
Work to ensure that good faith efforts are enforced and that DSBOs project goal calculation is understood as the official tabulation – BerryDunn recommends that DSBO develop policies and procedures to uniformly enforce good faith effort documentation. Additionally, BerryDunn recommends DSBO work with elected officials to change the ordinance to require approval prior to prime contractors removing or adding certified businesses after the contract has initiated. Lastly, BerryDunn recommends that DSBO work with City departments to help all parties understand that DSBO’s calculation of the project goal is the official record.

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Narrative for Recommendation 2.6
DSBO agrees with Recommendation 2.6 and prior to the audit had implemented policies and guidance for good faith efforts in the new ordinance for contractors and DSBO staff. In addition, termination/substitution for good cause is within the new ordinance which requires a contractor/consultant must have good cause to terminate, substitute or reduce scope of an MWBE. There are 10 good cause reasoning for the intent to terminate, substitute or reduce scope; the Contractor/Consultant shall provide their justification for their good cause to the MWBE, DSBO and Department PM for consent.

### RECOMMENDATION 2.7

**Work to ensure that DSBO staff who use B2G are provided training resources** – BerryDunn recommends that DSBO staff who use B2G be provided system training, especially the reporting functionalities within B2G. DSBO should consider sending members overseeing the use of B2G to the in-person training, if feasible.

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**Narrative for Recommendation 2.7**

DSBO agrees with Recommendation 2.7 and will focus on specific B2G training regiments. Due to COVID-19 and the subsequent budgetary constraints given the pandemic, DSBO leadership will work with B2G to find both economical and virtual training programs specific to B2G.

### AUDIT FINDING 3

DSBO is not in compliance with program and project monitoring requirements.

### RECOMMENDATION 3.1

**Improve monitoring of goal performance and increase outreach** – BerryDunn recommends DSBO evaluate the goal-monitoring process and improve its controls related to tracking goal performance and outreach to contractors that are active and appear to not be meeting their goals.

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**Narrative for Recommendation 3.1**

DSBO agrees with Recommendation 3.1 and will implement policies for documentation and communication between DSBO and the contractors that appear to not be meeting goal.

### RECOMMENDATION 3.2
**Documentation of monitoring activity controls** – BerryDunn recommends that, after DSBO identifies the most effective use of letters of intent and good faith efforts, DSBO document the procedures and train staff.

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**Narrative for Recommendation 3.2**
DSBO agrees with Recommendation 3.2. The Ordinance reauthorization provides clarifying language around letters of intent (LOI) and good faith efforts (GFEs). DSBO leadership will develop SOPs and train the DSBO Compliance Officers on how LOIs and GFEs should be monitored and approved.

**RECOMMENDATION 3.3**
Evaluate staffing needs and workload of monitoring activities – BerryDunn recommends DSBO evaluate and reduce the number of contracts assigned to each compliance staff member to allow effective monitoring.

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**Narrative for Recommendation 3.3**
DSBO agrees with Recommendation 3.3 and will work closely with the City’s Budget Office and DEDO leadership to try to prioritize hiring decisions based on these audit recommendations. Please note that due to COVID-19 and the subsequent budget constraints on the city, DSBO may not be able to hire additional staff in the near future.

**RECOMMENDATION 3.4**
Improve monitoring activity controls – BerryDunn recommends DSBO work to ensure letters of intent are executed as written and submitted. DSBO should monitor contracts to assess whether the proposed certified firms are utilized. When DSBO identifies a subcontractor that is receiving payments and was not previously included in the contract, BerryDunn recommends DSBO work with the contractor to obtain a documented good faith effort, so the certified firm’s work can be counted toward the goal percentage.

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Narrative for Recommendation 3.4
DSBO agrees with Recommendation 3.4 and the incorporation of the language in the new ordinance regarding letters of intent (LOIs) ahead of the audit will allow DSBO to monitor and ensure LOIs are executed as written by requiring LOIs to only be submitted for work that is clearly identified and with an established dollar value, rather than a percentage for work that is not guaranteed. In addition, the new ordinance no longer requires a modified good faith effort to be submitted in order to count participation for newly added certified firms, instead DSBO is requiring submission of a complete LOI.

RECOMMENDATION 3.5
Improve documentation of monitoring activities – BerryDunn recommends DSBO document monitoring activities performed and develop a consistent document management mechanism that allows verification and confirmation of completed tasks.

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Narrative for Recommendation 3.5
DSBO agrees with Recommendation 3.5 and will develop a document management mechanism to better track the communications, correspondence, and completed tasks. Please note that due to COVID-19 and the subsequent budget constraints on the city, DSBO may not be able to immediately build out a robust document management system

AUDIT FINDING 4
DSBO is inconsistent in its response times and renewal practices for certifying and recertifying businesses.

RECOMMENDATION 4.1
Establish and enforce a deadline for processing certification applications – BerryDunn recommends that DSBO continue to use an automated and proactive approach when reaching out to businesses that need to recertify. BerryDunn also recommends training of staff to enforce a faster and more-uniform decision timeline for responding to applications.

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Narrative for Recommendation 4.1
DSBO agrees with Recommendation 4.1 and has added timelines for processing certification applications to Rules and Regulations as well as the Standard Operating Procedures. These procedures include notifications for new applicants as well as certified firms renewing which will result in a total of...
at least 6 additional notifications for applicants. Certified firms will receive notifications at 120, 90, 60, and 30 days that their certification will be expiring and then certified firms will receive 2 notifications with the notification that their certification has expired. DSBO has also incorporated this correspondence into the certification letter, external trainings sessions and external informational collateral. DSBO is incorporating internal training on certification processing and reviews as well as including adherence to decision timelines into staff performance evaluations.

### RECOMMENDATION 4.2
Remove the option to provide certification extensions – BerryDunn recommends that DSBO follow the established renewal process for all subcontractors and not grant extensions upon request.

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**Narrative for Recommendation 4.2**
DSBO agrees with Recommendation 4.2 to remove certification extensions and at the time of the audit this change was reflected in the new Rules and Regulations as well as the Standard Operating Procedures. DSBO is integrating additional notifications to inform the certified firm of expiration. The certified firm will receive a 120 day, 90 day, 60 day, and 30 day notification that their certification will expire.

### AUDIT FINDING 5
The DSBO goal-setting process is inconsistent and does not maximize program effectiveness.

### RECOMMENDATION 5.1
Improve goal assignment controls – BerryDunn recommends DSBO utilize a consistent goal-setting process and document goal-determination procedures to promote consistency among staff.

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**Narrative for Recommendation 5.1**
DSBO agrees with Recommendation 5.1 and identified this change prior with the ordinance reauthorization to outline the goal-setting process conducted by DSBO. Standard Operating Procedures have also been created to ensure consistency and documentation of the analyses.

### RECOMMENDATION 5.2
Improve consistency of goal assignment methodologies – BerryDunn recommends DSBO utilize the goal established by the goal analyst or stay within a range established by DSBO in order to prevent inconsistent goal setting.

<table>
<thead>
<tr>
<th>Agree or Disagree with Recommendation</th>
<th>Target date to complete implementation activities (Generally expected within 60 to 90 days)</th>
<th>Name and phone number of specific point of contact for implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agree</td>
<td>08/01/20</td>
<td>Mića Anderson</td>
</tr>
</tbody>
</table>

Narrative for Recommendation 5.2
DSBO agrees with Recommendation 5.2 and identified this change prior with the Ordinance reauthorization. DSBO is currently developing Standard Operating Procedures to explain the goal determination analysis, track previous project determinations (ranges) and ensure consistency. The Standard Operating Procedure for Goal determinations will also include that in determining the relevance of a goal the following factors are evaluated and analyzed: the project’s scope of work, final cost estimate, pool of certified firms in the certification directory, the goal/attainment of previous projects of similar nature, time constraints, materials, technical expertise/certifications/licenses/warranties and project duration.

AUDIT FINDING 6
City purchasing controls for notifying DSBO are insufficient.

RECOMMENDATION 6.1
Cooperate with other City agencies to improve City purchasing controls – BerryDunn recommends DSBO work with City officials and procurement to implement a method or control that would help prevent qualified projects from being procured without a goal established.

<table>
<thead>
<tr>
<th>Agree or Disagree with Recommendation</th>
<th>Target date to complete implementation activities (Generally expected within 60 to 90 days)</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Agree</td>
<td>09/01/20</td>
<td>Adrina Gibson</td>
</tr>
</tbody>
</table>

Narrative for Recommendation 6.1
DSBO agrees with Recommendation 6.1 and through the Ordinance reauthorization prior to the audit had established authority, coordination efforts, and responsibility between City Agencies and DSBO in the Ordinance reauthorization, new Rules & Regulations. DSBO is also developing Service Level Agreements with City Agencies to articulate more specific policies between City agencies and DSBO which will help to prevent projects from being procured without the assessment of a MWBE goal or SBE defined pool. It is important to note that under the Ordinance, not all projects are required to have a goal established, though projects must be assessed for a goal to determine if opportunities exist.
Please contact Adrina Gibson, Director, Division of Small Business Opportunity at adrina.gibson@denvergov.org with any questions.

Sincerely,

Eric Hiraga
Executive Director,
Denver Economic Opportunity & Development

cc: Valerie Walling, CPA, Deputy Auditor
Katja E. V. Freeman, MA, MELP, Audit Director
Vilma Balnyte, CPA, MBA, Lead Auditor
Jen Morris, Chief of Staff, Denver Economic Opportunity & Development
Matthew Kames, Chief Operating Officer, Denver Economic Opportunity & Development
Adrina Gibson, Director, Division of Small Business Opportunity
Mića Anderson, Assistant Director, Division of Small Business
Elly Bacon, Assistant Director, Division of Small Business
Office of the Auditor

The **Auditor** of the City and County of Denver is independently elected by the citizens of Denver. He is responsible for examining and evaluating the operations of City agencies and contractors for the purpose of ensuring the proper and efficient use of City resources. He also provides other audit services and information to City Council, the Mayor, and the public to improve all aspects of Denver's government.

The **Audit Committee** is chaired by the Auditor and consists of seven members. The Audit Committee assists the Auditor in his oversight responsibilities regarding the integrity of the City's finances and operations, including the reliability of the City's financial statements. The Audit Committee is structured in a manner that ensures the independent oversight of City operations, thereby enhancing citizen confidence and avoiding any appearance of a conflict of interest.

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**Our Mission**

We deliver independent, transparent, and professional oversight in order to safeguard and improve the public's investment in the City of Denver. Our work is performed on behalf of everyone who cares about the City, including its residents, workers, and decision-makers.