

# Doing Business with Minority, Women, Emerging Small Businesses, and Service-Disabled Veteran Business Enterprises in Oregon: Energy Trust of Oregon Supplier Diversity Program

“MWESBs and SDVs are at the cornerstone of Energy Trust of Oregon’s mission to sustain local businesses. Through a headstrong reverence to diversity and those who embody it, we are helping to cultivate a statewide flourish of multicultural prosperity.” – Tyrone Henry, Diversity, Equity and Inclusion Lead

August 16, 2021

## Why We Do This Work

Since its inception, Energy Trust of Oregon has developed and supported a network of suppliers, industry experts, and service providers through its efforts to advance energy efficiency and small renewable energy systems throughout its service territories. Having developed this network of businesses, Energy Trust has a responsibility in ensuring its work with minority, women, emerging small businesses and service-disabled veteran business enterprises (MWESB/SDVBE) is equitable and supports their growth in Oregon's economy. Energy Trust is committed to this work by building an effective and robust supplier diversity program. In building such a program there are inherited challenges and solutions that should be considered and addressed:

- Historically, there has been no formal supplier diversity program or tracking system to support and monitor MWESB/SDVBE businesses.
- Participation by MWESB/SDVBE businesses should be more clearly defined as goals for Energy Trust's programs.
- The application of a supplier diversity initiative for all contract types and contract amounts should be clarified.
- An effective MWESB/SDVBE supplier diversity program should:
  - Establish eligible suppliers based on the definitions created by Oregon's Certification Office for Business Inclusion and Diversity.
  - Align solicitations with Energy Trust's supplier diversity goals.
  - Strengthen performance measures that assess contracting data by creating a supplier diversity tracking system.
  - Track and report on performance measures in Energy Trust's public reports.
  - Include an inter-organizational agreement with utility funders and the OPUC to promote solicitation opportunities to MWESB/SDVBE certified firms.
  - Track contracts at the direct and indirect level to encourage subcontracting with MWESB/SDVBE suppliers and hold direct contractors accountable.

## Defining What an MWESB/SDVBE Supplier Diversity Program Means to Energy Trust

As we begin to build our MWESB/SDVBE Supplier Diversity Program (SDP), it is paramount that we help cultivate a wide array of MWESB/SDVBE suppliers and contractors from around the state. Not only does working with these firms improve our ability to better serve customers who Energy Trust has historically underserved, but they also contribute to our funding through their energy consumption and should have meaningful opportunities to contract with us. This may include helping to develop Trade Ally Workshops, encouraging joint venture partnering opportunities and collaborating with our utility partners and community-based organizations (CBOs) to engage in MWESB/SDVBE outreach events. With our ever-growing projects reaching deeper into rural parts of the state and tribal communities, the ability to widen our potential supplier pool is a given. This, in turn, will promote competition in the supply base chain of MWESB/SDVBE contractors, improve product quality and reduce costs. Adding diversity to our supplier base helps businesses weather unanticipated events like COVID-19 and

other economic downturns. Providing contracting opportunities for MWESB/SDVBE suppliers and contractors is not only crucial to Oregon's economy, but it also supports our ratepayers' quality of life.

Sometimes finding qualified MWESB/SDVBE suppliers to take part in a supplier diversity program is simply not enough. A sustainable, successful supplier diversity program requires commitment and buy-in from across the organization. To help ensure our SDP remains equitable and inclusive, here are six crucial elements our supplier diversity program must embrace to be successful.

## 1. Program Purpose and Policy:

Energy Trust has established the SDP to advance non-discriminatory practices and a more inclusive use of Minority Business Enterprise, Women Business Enterprise, Emerging Small Business Enterprise and Service-Disabled Veteran Business Enterprise (MWESB/SDVBE) and to increase accessibility of contracting opportunities. Energy Trust is committed to ensuring that qualified MWESB/SDVBE firms can receive and participate in Energy Trust contracting opportunities, including bidding at prime levels. Energy Trust looks to its staff and its contracted entities, including its Program Management Contractors (PMCs) and Program Delivery Contractors (PDCs), to identify and attract capable MWESB/SDVBE firms that can effectively provide quality services and facilitate the development of Oregon-based MWESB/SDVBE firms in Energy Trust's work.

It is the goal of Energy Trust to award contracts to Oregon-based MWESB/SDVBE businesses and provide guidance on how to conduct business with Energy Trust. Services may include professional services, purchased supplies and materials, hired labor and/or general management services. Through our Diversity, Equity and Inclusion (DEI) Plan, Energy Trust will establish contracting goals with MWESB/SDVBE businesses. The goals may be adjusted from year to year and shall be communicated to all contractors through bid documents and pre-solicitation meetings. The MWESB/SDVBE business participation levels are goals, not quotas. The SDP is consistent with federal and state statutory and regulatory provisions and other contractual requirements relating to equal opportunity with supplier diversity. Energy Trust complies with all applicable federal, state, and local laws regarding non-discrimination and will not discriminate in any case against a business based on the owner's race, color, religion, creed, national origin, sex, age, familial status, sexual orientation, gender identity, disability, or status as a veteran.

## 2. Supplier Diversity Program Qualifications:

MWESB/SDVBE businesses are defined according to the Certification Office for Business Inclusion and Diversity (COBID) of Oregon, the Oregon agency responsible for the appropriate certification of small business firms. Energy Trust is not a certification agency, nor will Energy Trust participate in self-certification of any kind.

Firms that are not certified by the COBID office are encouraged to do so. Any firm that believes they meet the criteria for certification or are interested in learning about the certification process – even if the firm is already certified in another state – should visit [www.orcobid.gov](http://www.orcobid.gov) to start their application or learn

more. Keep in mind that it can take 60 – 90 days to complete the certification process. Interested firms can also call (503) 986-0075 if they have any questions.

The specific definitions from COBID for Minority Business Enterprise, Women Business Enterprise, Emerging Small Business Enterprise and Service-Disabled Veteran Business Enterprise are provided in Appendix A.

### 3. MWESB/SDVBE Contracting:

#### SDP and Energy Trust Contracts Authorizing Expenditure greater than \$100,000 utilizing a Competitive Solicitation Process

All bids and proposals submitted to Energy Trust for initial opportunities greater than \$100,000 utilizing a competitive solicitation process<sup>1</sup> must demonstrate how at least twenty percent (20%) of the value of the contract (not including incentive or other pass-through reimbursable expenses or costs if applicable) will be received by a COBID certified firm<sup>2</sup>. Proposals must clearly demonstrate the roles and responsibilities of a COBID certified firm or firms in delivering the services requested by the solicitation and include a budget proposal that identifies that a minimum of twenty percent (20%) of the value of the contract (not including incentive or other pass-through budgets, if applicable) will be paid to a COBID certified firm or firms. Bids may be disqualified at the discretion of Energy Trust for failure to express a commitment to MWESB/SDVBE businesses or past failures to satisfy its expressed contractual commitment to meet or exceed Energy Trust's MWESB/SDVBE contractual spending requirements.

All submitting firms must submit their proposals with appropriate certification(s) for each COBID certified firm or firms. Companies that submit bids without the appropriate certification(s) shall be notified of the deficiency and given a reasonable opportunity to provide evidence of certification. Third-party technical assistance resources and certification counseling services shall be provided to firms that are may be eligible for COBID certification but have not yet applied for or received it.

Any respondent that submits a bid with an MWESB/SDVBE firm whose COBID certification has lapsed or is not certified but has begun the COBID certification process will be given a grace period that will expire at the conclusion of the competitive solicitation process defined by notification to the selected firm. Should the uncertified firm or firms not be certified as an MWESB/SDVBE by COBID by the conclusion of the solicitation process, their contributions toward the 20% minimum spending requirement shall not be counted, and the proposal's score shall be adjusted accordingly.

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<sup>1</sup> This requirement does not apply to solicitations for equipment, licenses or supply purchases; contracts with a sole source justification including those for space leases or with specific industry organizations like the Northwest Energy Efficiency Alliance; memberships and subscriptions; Energy Trust lender agreements; or contracts related to employment or hiring.

<sup>2</sup> Energy Trust requires certification by Oregon's COBID office. Firms located outside Oregon that have been certified by their home state should visit [www.orcobid.gov](http://www.orcobid.gov) to start the Oregon certification process.

All MWESB/SDVBE certified firms are expected to remain in good standing with COBID throughout the course of the contract.

Every competitive solicitation will include a review committee to, among other things, review the roles and responsibilities of COBID certified firms in each proposal, ensure that at least 20% of the value of the contract is going to a COBID certified firm or firms and make recommendations to the Executive Director and/or the Energy Trust Board (for contracts over \$500,000) as required for awards. Such review committees shall include a “diversity champion” who might be recruited from the internal DEI Committee, the Diversity Advisory Council or other external sources of DEI expertise.

### Contracts less than or equal to \$100,000

The procurement of any contract opportunity of \$100,000 or less (Small Contracts)<sup>3</sup> must demonstrate that it has complied with two key elements:

1. The contracting opportunity was promoted to a diversity of firms that includes COBID certified firms, as applicable, and/or firms that are known to be or identify as a BIPOC<sup>4</sup>- or woman-owned firm and the opportunity was posted to Energy Trust’s website.
2. The winning proposal is determined by a set of selection criteria announced in the contracting opportunity.

The contracting opportunity must include a request for COBID certification information for the proposer and give selection preference<sup>5</sup> for COBID certified firms or firms that are known to be or identify as a BIPOC- or woman-owned firm (see also item 4 below for guidance on promoting the solicitation). Contract terms will include termination provisions for changes in ownership during the term of the contract.

The contract cover sheet shall indicate COBID certification and, in the absence of COBID certification, an explanation of what effort was taken to promote the solicitation to, identify and select a COBID certified firm. In the absence of qualified proposals from COBID certified firms, contract managers should seek to select firms that are known to be or identify as a BIPOC- or woman-owned firm. Only contracts with COBID certified firms will count toward and be reported against our supplier diversity goals, but contracts with non-COBID certified BIPOC- and woman-owned firms will be tracked in the supplier diversity tracking system.

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<sup>3</sup> Not including procurement of equipment, licenses or supply purchases; contracts with a sole source justification including those for space leases or with specific industry organizations like the Northwest Energy Efficiency Alliance; memberships and subscriptions; Energy Trust lender agreements; or contracts related to employment or hiring.

<sup>4</sup> Black, Indigenous or person of color

<sup>5</sup> In this circumstance, “preference” will be interpreted as selection of a COBID-certified firm among a set of proposals that are the same or reasonably close in quality and price where there is more than one proposer who could reasonably perform the work.

#### 4. Agency-Wide Supplier Diversity Commitment:

Like any business strategy, supplier diversity only becomes a reality when it is ingrained in the organization's day-to-day systems and the minds of staff. Making sure staff are fully trained in supplier diversity and the supplier diversity tracking system is an absolute must. Digitization and being able to manipulate and extract data from the new tracking system not only improves the overall procurement function, it also makes supplier diversity more manageable by helping track and analyze data for reporting.

A significant factor for a supplier diversity program's success is [removing obstacles](#)<sup>6</sup> standing in the way of our diversity goals. By sharing the details of what products, services, and changes our organization needs, we can help MWESB/SDVBE businesses and in turn they can help us engage more effectively with them and our customers. For example, most companies or agencies with SDPs have an extensive website with comprehensive SDP information on how to do business with them. Above all, we must continually stay informed about supplier diversity trends and requirements, including those trends and requirements as reflected in federal and state contracting programs.

Procurement activities of any size or type of service should be considered with respect to the SDP. It is incumbent upon all staff to ensure that all contract opportunities are promoted to MWESB/SDVBE businesses and that they are encouraged to respond to competitive solicitations. The [COBID database](#); membership organizations such as the National Association of Minority Contractors of Oregon (NAMC-Oregon), the Professional Business Development Group (PBDG) and LatinoBuilt (also known as the BIG-3); and our DEI Services Team are excellent resources for certified and diverse firms. Additionally, selection of a respondent in a competitive solicitation process should provide additional weight to diverse firms. Energy Trust's SDP goals will be based on total annual contracting<sup>7</sup> and, therefore, all procurement should strive to support diverse firms.

#### 5. Intersections with other Diversity, Equity and Inclusion Efforts:

Energy Trust's diversity, equity and inclusion efforts extend well beyond the supplier diversity initiative into all aspects of the organization. The SDP needs to recognize the intersections among these various efforts and work to maximize the impacts of all of them. Some related efforts include our work with community-based organizations (CBOs) and trade allies.

##### Community-Based Organizations

While the SDP deals explicitly with companies that provide direct contracted or subcontracted services to Energy Trust, we also work and contract with CBOs

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<sup>6</sup> Craig-Hart, S. (2017, January 18) *How to Achieve Supplier Diversity*. Dun & Bradstreet. <https://www.dnb.com/perspectives/small-business/supplier-diversity-definition-how-to-increase-supply-chain-diversity.html>

<sup>7</sup> Total annual contracting would not include contracts for the procurement of equipment, licenses or supply purchases; contracts with a sole source justification including those for space leases or with specific industry organizations like the Northwest Energy Efficiency Alliance; memberships and subscriptions; Energy Trust lender agreements; or contracts related to employment or hiring.



that provide specific types of services to Energy Trust. They have assisted us in engaging with many communities throughout Oregon, they play a pivotal role and are typically well-integrated and trusted by the communities Energy Trust attempts to reach. CBOs, however, are not recognized through COBID certification so we have established separate goals outside of the SDP to increase our support of and partnership with these types of organizations.

These organizations, however, do intersect in important ways with the objectives of the SDP, and we want to ensure continued focus on CBOs. Effective CBOs reflect the communities they serve in their leadership. They can help Energy Trust relate with and connect to the MWESB/SDV firms in the communities they support. Being able to speak the language of diverse constituents, provide technical assistance and even, in some circumstances, help potential MWESB/SDV contractors navigate the COBID certification process provides valuable support for Energy Trust. Our relationships with CBOs help stimulate job creation, boost economic development among MWESB/SDVBE contractors and build capacity among COBID certified firms, all objectives of the SDP.

### Trade Allies

Energy Trust has developed an extensive network of trade allies among the construction trades who support customers as they adopt clean energy solutions. These trade allies work with us to become familiar with our incentives, program processes and measure requirements to support their customers. Because trade allies are not directly contracted with Energy Trust to provide specific services, these types of entities are not covered by the SDP and we have established separate goals for increasing the diversity of the Trade Ally Network. Like CBOs, trade allies have an important intersection with the objectives of the SDP.

Because of their knowledge and relationships with their MWESB/SDVBE client base, membership organizations such as the National Association of Minority Contractors of Oregon (NAMC-Oregon), the Professional Business Development Group (PBDG) and LatinoBuilt are important partners in increasing the diversity of the Trade Ally Network by connecting us with various COBID certified firms.

## 6. Ongoing Commitment to Support MWESB/SDVBE Firms:

As part of an established SDP, we must continually monitor and improve it each year. Annual audits will help us verify that activities and results align with our policies and annual DEI goals. Feedback from internal stakeholders, the MWESB/SDVBE business community, the OPUC and our utility partners is vital to ensure that our SDP exceeds everyone's expectations. Highlighting program success stories is a way to maintain momentum and pride in what we do. A dedicated space on our website is a great way to draw attention to diverse firms and pay honor to all who will have dedicated themselves to the success of our program.

Our ongoing commitment should include a willingness to engage respectfully and productively with the MWESB/SDVBE firms, CBOs or trade allies in order to deepen our mutual understanding and to develop larger, more diverse pools of

potential resources. The following guidance should be considered whenever building these relationships<sup>8</sup>:

**Seek inclusive relationships based on diversity.** Make a list of potential firms and organizations you think would benefit from what you are trying to accomplish and keep these firms in mind as you proceed. Seek and establish relationships and contracts with a cross-section of the community and ensure that the firms engaged have prior experience in working with the community you are working to serve.

**Don't wait for all relationships to get on board prior to moving your plans forward.** Most relationships expand over time; don't lose momentum waiting on others.

**Secure commitments to collaborate – don't leave it to chance.** Ask those firms and organizations you engage with to designate specific individuals with a well-known reputation in the community and assign responsibilities in writing. Take an assessment of what each organization brings to the table. When everyone better understands their role, they are more likely to develop effective and inclusive plans that support your goals.

**Seek input by collaborating to create a shared vision and/or goals.** Give firms and organizations an opportunity to help develop and shape your vision and goals, rather than rubber-stamping them. If DEI training is needed to fully understand how to best engage organizations, then seek out a DEI consultant of color who can provide this type of expertise.

**Engage in collaborative decision-making, if appropriate.** If there are other entities who have already blazed the trail you are about to embark on, then consider working with and learning from them. If there are others at the same stage as you, then consider an opportunity to collaborate and blaze the trail together. Come to agreement on your respective roles to help minimize disagreements later. This builds a feeling of ownership and empowerment among all parties involved.

**Use members of our advisory councils and DEI Committee to focus on areas of specialty.** Conduct cross-learning exercises through workshops or meetings to enhance your efforts or consider recruiting these members to work directly with you.

**Develop shared measurable goals and communicate your progress regularly.** Make sure information about your effort's successes and failures are readily available to all parties involved. Transparency is paramount, which is why Energy Trust will continue publishing and reporting progress on our supplier diversity goals and efforts.

**Listen and be responsive to key stakeholders in your community.** It's important to understand the issues and concerns of those you are working with or trying to serve. Don't, however, try to be all things to all people. It's ok to find those intersections where Energy Trust's purpose supports specific issues.

**Don't hesitate to think BIG and make bold decisions in order to move the ball forward.** Positive momentum is always a good predictor of success. As Newton's First Law of Motion (the law of inertia) states, an object at rest tends to stay at rest, while an object in motion tends to stay in motion.

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<sup>8</sup> Coe, A. *Ten Tips for Effective Community Partnerships*. Convergent Nonprofit Solutions. <https://www.convergentnonprofit.com/blog/10-tips-for-effective-community-partnerships/>



**Finally, attend BIG-3 meetings** either virtually or in person when it is safe to do so. These meetings occur once per month and will help you gain a deeper perspective on how to engage with the MWESB/SDVBE business community.

## APPENDIX A: Definitions of Minority, Women, Emerging Small Businesses/Service-Disabled Veteran Business Enterprise by the Certification Office for Business Inclusion and Diversity (COBID) of Oregon<sup>9</sup>

### **Minority and Women Business Enterprise Certification (M/WBE)**

Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) certifications are for minority-owned and women-owned businesses seeking opportunities for state, county and city government and special jurisdiction (e.g., hospitals and universities) contracts.

#### **To qualify**

The business must:

- be for profit [OAR 123-200-1600(3)(a)]
- be registered with the Oregon Secretary of State [OAR 123-200-1600(3)(c)]
- have gross annual receipts (3-year average) not exceeding \$26.29 million [OAR 123-200-1100(16)]

and the business owner must:

- be a U.S. citizen or lawfully admitted, permanent resident [49 CFR 26.67(a)]
- own and control 51% or more [OAR 123-200-1220]
- control and manage day-to-day operations [OAR 123-200-1240]
- have proper licensing (e.g., engineer, plumber, etc.) [OAR 123-200-1240(8)(a)]
- have made a contribution of capital [OAR 123-200-1220(6)]

The business owner should also expect a phone interview as well as a possible site visit, which includes office, shop, and job site when applicable [OAR 123-200-1300(6)]

### **Emerging Small Business (ESB) Certification**

The Emerging Small Business (ESB) certification is for Oregon small businesses seeking opportunities for state, county and city government and special jurisdiction (e.g., hospitals and universities) contracts. The certification is:

- A race and gender-neutral program based on the size of the business rather than the individual [OAR 123-200-1600(1)]
- A two-tier system with total participation not to exceed 12 years

#### **To qualify**

The business must:

- be for profit [OAR 123-200-1600(3)(a)]
- be an Oregon business (according to federal tax filing) [OAR 123-200-1600(3)(b)]

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<sup>9</sup> Energy Trust requires certification by Oregon's COBID office. Firms located outside Oregon that have been certified by their home state should visit [www.orcobid.gov](http://www.orcobid.gov) to start the Oregon certification process.

be registered with the Oregon Secretary of State [OAR 123-200-1600(3)(c)]  
not be a joint venture [OAR 123-200-1600(3)(d)]

and the business owner must:

be properly licensed (e.g., engineer, plumber, etc.) [OAR 123-200-1600(3)(c)]

Tier	1	2
Number of employees [OAR 123-200-1600(3)(e) and (h)]	less than 19	less than 29
3-year average annual gross receipts		
- construction firms	< \$1,972,996.84	< \$3,945,993.70
- non-construction firms	< \$789,198.873	< \$1,315,331.23

The business owner should also expect a phone interview as well as a possible site visit, which includes office, shop, and job site when applicable [OAR 123-200-1300(6)].

## Service-Disabled Veteran (SDV) Certification

Service-Disabled Veteran (SDV) certification is for service-disabled veteran-owned businesses seeking opportunities for state, county and city government and special jurisdiction (e.g., hospitals and universities) contracts.

Certification is based on the individual rather than the size of the business

### To qualify

The business must:

be for profit [OAR 123-200-1600(3)(a)]  
be registered with the Oregon Secretary of State [OAR 123-200-1600(3)(c)]  
have gross annual receipts (3-year average) not exceeding \$26.29 million [OAR 123-200-1100(16)]

and the business owner must:

be a U.S. citizen or lawfully admitted, permanent resident [49 CFR 26.67(a)]  
own and control 51% or more [OAR 123-200-1220]  
control and manage day-to-day operations [OAR 123-200-1240]  
have proper licensing (e.g., engineer, plumber, etc.) [OAR 123-200-1240(8)(a)]  
have made a contribution of capital [OAR 123-200-1220(6)]

The business owner should also expect a phone interview as well as a possible site visit, which includes office, shop, and job site when applicable [OAR 123-200-1300(6)].