



# Illinois Department of Transportation

Office of the Secretary  
2300 South Dirksen Parkway / Springfield, Illinois / 62764  
Telephone 217/782-5597

January 30, 2015

Honorable John T. Cullerton  
President of the Senate  
327 Capitol Building  
Springfield, IL 62706

Re: Target Market Annual Report

Dear President Cullerton:

As required by P.A. 097-228, the Department of Transportation jointly with the Chief Procurement Officer is submitting the annual report outlining the efforts taken by the Department to continue identifying and remedying incidents of egregious discrimination in geographic or construction market areas around the state through implementation of the Target Market Program.

If you have any questions or need further information regarding this or any other matter, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Erica Borggren'.

Erica Borggren  
Acting Secretary

A handwritten signature in black ink, appearing to read 'Bill Grunloh'.

Bill Grunloh  
Chief Procurement Officer

Enclosure



# Illinois Department of Transportation

Office of the Secretary  
2300 South Dirksen Parkway / Springfield, Illinois / 62764  
Telephone 217/782-5597

## Report to the Illinois General Assembly on Senate Bill 1923, P.A. 097-0228

The Illinois General Assembly enacted Senate Bill 1923 and on July 28, 2011 the Governor signed into law Public Act 097-0228 ("the Act"), establishing a Target Market Program to provide a remedial plan to address particular incidents and patterns of egregious race or gender discrimination in transportation related contracts. The Illinois Department of Transportation ("Department") and the Chief Procurement Officer ("CPO") do hereby jointly submit this annual report regarding the progress towards evidentiary inquiries and studies that may establish the Target Market Program.

The Department recognized the potential for localized incidents of underutilization and discrimination through statistical and anecdotal evidence from the most recent Department Statewide Disparity Study published in August of 2011. As a result, and in conjunction with Public Act 097-0228, the Department has conducted geographically focused disparity studies to examine whether particular incidents and patterns of egregious race or gender discrimination persist.

### **1. Target Market Program Overview**

As stated above, under the Act, the Department must review evidence of discrimination related to transportation construction projects. Evidence may include the utilization, availability, and disparities in the rates at which minority-owned and female-owned firms perform work on Department construction projects. Additionally, other quantitative and qualitative information or data may be analyzed.

Upon a review of the evidence, the Department may find that there is a strong basis in evidence that it has a compelling interest in remedying the identified discrimination against a specific group, race, or gender. The CPO must concur in the findings in order to exercise his authority to establish and implement a Target Market Program.

The Target Market Program is a narrowly tailored remedial plan to address the specific findings of egregious discrimination and is subject to a public hearing where stakeholders may provide comments. The Target Market Program is limited to state-funded contracts only and, therefore, limits the applicable pool of contracts.

## **2. Recap of Significant Progress Achieved**

Reauthorization of the Target Market Program was enacted by Senate Bill 2761 and extended the repeal date of the target market program from June 30, 2014 to June 30, 2017.

As part of its due diligence, the Department considered both documented and potential disparities in the context of highway construction contracting. As part of that undertaking, the Department aggressively investigated whether sufficient evidence of egregious discrimination existed. Specifically, after reviewing historical documentation in the Department's District 4, the Department and the CPO recognized the need to conduct a further investigation and requested Mason Tillman Associates, Ltd., to update statistical information specific to this area in order to determine whether the conditions of egregious discrimination continue to exist. The twelve counties in District 4 are Mercer, Henderson, Warren, Knox, McDonough, Fulton, Peoria, Stark, Putnam, Marshall, Woodford and Tazewell.

The disparity study, which was limited to District 4 construction contracts awarded from July 1, 2010 to June 30, 2011, provided the factual predicate to support a Target Market Program with a race conscious remedy. The statistical data was further bolstered by anecdotal evidence gathered from three additional sources:

- IDOT Target Market Program Public Hearing, December 2011, Peoria, Illinois;
- IDOT Disadvantaged Business Enterprise ("DBE") Disparity Study Anecdotal Analysis, 2009; and
- IDOT DBE Public Hearing, 2005

Several barriers were identified in the District 4 study. Discrimination based on race and gender, harassment on work sites, discrimination by unions, bid shopping, and late payments are only a few of the barriers demonstrated in the study.

In sum, the findings were presented to the Department in December 2013, where the Mason Tillman Associates, Ltd. Study of District 4 found: "There was a statistical significant disparity found in construction prime contracts for African Americans, MBE and a significant disparity found in construction subcontracts for African Americans, and Minority Business Enterprises."

Subsequently, the Department conducted another public hearing on July 9, 2014 in Peoria, Illinois to collect comments from minority, female, and general contractor groups, community organizations, and other interested parties.

Ultimately, the Department submitted a letter of findings and received a letter of concurrence from the CPO to proceed with a Target Market Special Letting in District 4 on July 29, 2014. This letting was advertised on October 29, 2014 with a letting date of November 21, 2014.

### 3. District 8 Target Market Special Letting

#### **Recap of 2012**

The table below summarizes the results of the June 29, 2012 Target Market Special Letting which contained a total of ten advertised projects for a program amount of \$1,913,000. The Department was disappointed in the Target Market Special Letting results because only five projects were awarded to minority firms for a total amount of \$580,278.81, as there were no bids submitted on all four landscaping projects located in St. Clair and one bid was ultimately rejected.

The \$250,000 landscaping project (highlighted in yellow below) was re-bundled into the original Mississippi River Bridge contract from the April 27, 2012 letting, as further delay would have affected the overall progress of the project. Additionally, the Department decided to re-let three of the landscaping projects (items 1, 2 and 10) on a subsequently scheduled Target Market Special Letting held on February 15, 2013.

#### **June 29, 2012 Target Market Results**

	County	Description	Ethnicity	Program Amount	Award Amount
1	St. Clair	Landscaping	---	\$200,000	No Bid
2	St. Clair	Landscaping	---	\$170,000	No Bid
3	St. Clair	Landscaping	---	\$250,000	No Bid
4	Marion	Bridge Deck Sealing	Asian Pacific	\$224,000	\$109,979.28
5	Clinton	Bridge Deck Sealing	Hispanic	\$274,000	\$130,059.47
6	Madison	Patching	African American	\$200,000	\$277,961.40
7	Madison-Bond	Grouting & Sealing	---	\$250,000	Rejected
8	Madison	Demolition	Hispanic	\$100,000	\$46,506.60
9	Madison	Demolition	Native American	\$80,000	\$15,772.06
10	St. Clair	Landscaping	---	\$165,000	No Bid
			<b>Total</b>	<b>\$1,913,000</b>	<b>\$580,278.81</b>

#### **Recap of 2013**

In an effort to maximize participation and positive letting results, an informational Target Market meeting was held on February 4, 2013 at the Department's District 8 Office in Collinsville. The meeting was attended by a diverse representation of firms -- seven African American firms and two Hispanic firms. The February 15, 2013 Target Market Special Letting yielded significant results as bids were received on all seven advertised Target Market projects including the previous landscaping items that received no bids the prior year on June 29, 2012. A total of \$1,078,817.29 was awarded to three African American firms and two Hispanic firms, thus nearly doubling the results of the prior Target Market Special Letting. A summary of the results of the letting are shown in the table below:

## February 15, 2013 Target Market Results

	County	Description	Ethnicity	Program Amount	Award Amount
1	Madison	Deck Sealing	African American	\$175,000.00	\$72,081.40
2	St. Clair	Landscaping	African American	\$200,000.00	\$159,457.00
3	St. Clair	Landscaping	African American	\$170,000.00	\$139,366.00
4	St. Clair	Landscaping	Hispanic	\$165,000.00	\$111,060.24
5	Randolph	Pavement Patching	African American	\$225,000.00	\$200,901.75
6	Madison	Grouting & Sealing	Hispanic	\$250,000.00	\$359,594.35
7	Madison	Demolition	Hispanic	\$30,000.00	\$26,355.55
				<b>\$1,215,000.00</b>	<b>\$1,068,816.29</b>

### ***Progress in 2014***

Pre-Letting meetings were held on October 29, 2014 and on November 5, 2014 for those interested in bidding on the Target Market projects. Supportive Services were on site to provide assistance with estimating and bidding, as well as navigating the process. 3 projects were added to the November 21<sup>st</sup> Letting for District 8 Target Market. Of those 3 projects 2 were awarded and 1 was rejected. The breakdown is below:

	County	Description	Ethnicity	Program Amount	Award Amount
1	Jersey	Drainage	Hispanic	\$125,000	\$48,537.00
2	Clinton	Pavement Patching	N/A	\$150,000	Rejected
3	Clinton	Pavement Patching	Hispanic	\$250,000	\$279,604.90
				<b>\$525,000</b>	<b>\$328,141.90</b>

Pre-letting meetings were held on October 29, 2014 and on November 5, 2014 for those interested in bidding on the Target Market projects. Supportive Services were on site to provide assistance with estimating and bidding as well as navigating the process. 5 projects were added to the November 21<sup>st</sup> Letting for District 4 Target Market. Of those projects 4 were awarded, 2 to Hispanic female and 2 to Hispanic male and 1 was rejected. The breakdown is below:

	County	Description	Ethnicity	Program Amount	Award Amount
1	Peoria	Demolition	Hispanic	\$50,000	\$27,279.43
2	Marshall	Demolition	Hispanic	\$50,000	\$29,371.86
3	Tazewell	Drainage	Hispanic	\$50,000	\$20,575.00
4	Peora	Slope Stabilization	Hispanic	\$95,000	\$82,369.50
5	Knox	Fencing	N/A	\$75,000	Rejected
				<b>\$320,000</b>	<b>\$159,595.79</b>

### **4. Looking Forward: 2015**

The Target Market Program and rules provide a variety of remedial actions when a finding of egregious discrimination is identified. It is not merely a contract set-aside program, rather, it is a race-conscious<sup>1</sup> contracting program that provides opportunities

<sup>1</sup> "Race conscious" in this context means a program that is focused specifically on assisting only eligible DBE firms, including women-owned firms.

for incentives, dual goals, and targeted solicitation. Therefore, identifying projects is entirely dependent on the remedial action chosen by the CPO and the Department.

While prequalification and bid bond requirements may be waived, the law requires public construction bonds on projects. Therefore, in light of the above constraints in selecting appropriate projects for a Target Market letting, the Department and CPO are examining the success of these lettings and whether alternative action should be taken to address the findings of the District 8 and District 4 disparity studies.

The Department will diligently review all projects in advance of each Department letting to determine if there are appropriate state-funded projects to be placed on a Target Market Special Letting, in the event this type of action is set forth as an appropriate remedy.

## **5. Other Non-Target Market Efforts**

Despite vigorous efforts by the Department to address discrimination in construction contracting, the recently completed studies demonstrate that disparities continue to persist in certain geographic and contracting markets. The Department's race and gender-neutral programs discussed below are intended to supplement the Target Market Program:

### **➤ Emerging contractors support initiatives**

To increase competition for IDOT's smaller prime contracts and provide more contract opportunities for DBEs and other small businesses, IDOT implemented a Small Business Initiative (SBI) program in June 2005 on state-only funded projects. IDOT continues to evaluate this program for its effectiveness in reducing barriers to participation as prime contractors by DBEs and other small firms.

### **➤ Supportive Services Program**

IDOT provides its DBE firms with technical and management assistance through a statewide network of consultants. The DBE Resource Centers (Centers) are located in every district throughout the state beginning in September 2009. The management and technical consultants offer assistance in such areas as bidding, estimating, marketing, technology, bonding/financing, accounting methods, web site development, loan packaging, prime-subcontractor networking, scheduling and more.

Supportive services include one-on-one assistance, workshops and training to strengthen and address the following areas and provide business development:

1. Increase the number of DBE firms that correct cash flow problems
2. Increase the number of DBE firms that improve their financial self-sufficiency by becoming bondable, increasing bonding capacity, and/or obtaining financing.
3. Increase the number of DBE firms whose equipment/resource needs are adequately addressed
4. Increase the number of DBE firms that reduce or eliminate slow pay problems.
5. Increase the number of DBE firms that obtain work with prime contractors.
6. Increase the number of DBE firms that improve and/or become proficient in construction cost estimating
7. Increase the number of DBE firms that proficiently manage their business through electronic media.

8. Increase the number of DBE firms that review, update or develop their complete business plans.
9. Increase the number of DBE firms that develop/implement accounting systems or evaluate/improve existing systems.

➤ **Mentor-Protégé Program**

In response to the Illinois highway industry's strong interest and to encourage maximum competition and enhance the capabilities of IDOT's DBEs to perform on IDOT's highway construction projects, IDOT developed a Mentor-Protégé program that was approved by the Federal Highway Administration (FHWA) on September 12, 2006. IDOT's Mentor-Protégé program is the only one of its kind that has been approved by FHWA.

The three-year pilot program began in April 2007, and is being implemented in all districts. As of August 2009, there were 25 Mentors and 36 Protégés. As lettings occur, potential Mentor-Protégé contracts are identified, giving the approved Mentor-Protégés an opportunity to submit bids. IDOT and FHWA continue to review mentor and protégé applications for eligibility to participate in the program and to monitor the program to ensure it meets established requirements.

➤ **Complaint procedures**

IDOT adopted a procedure to process complaints of discrimination in the operation of its DBE program and against contractors receiving IDOT contracts. This will ensure prompt, uniform and fair responses to allegations of unlawful conduct so that DBEs, non-DBEs and interested persons can have confidence in the integrity of IDOT's operations.

➤ **Prompt payment**

IDOT continues to enforce its prompt payment provisions and processes. It impresses upon its personnel and prime contractors the necessity and importance of meeting these requirements.

➤ **Outreach**

IDOT continues its outreach efforts to attract additional DBE participation and to assist those businesses to become competitive in a race-neutral environment. It is further contacting firms identified as possible DBE program participants to encourage their applications and assist with meeting eligibility criteria.

➤ **Networking**

IDOT sponsors networking activities to provide education and encourage participation on major construction projects. It is also cooperating with a statewide network of 20 Small Business Development Centers administered by the U.S. Small Business Administration and other Illinois state agencies to provide information on the DBE program and training and assistance to DBEs and small businesses.

➤ **Information sharing**

IDOT continues to develop and expand its new website as a valuable source for information and communication. The Contractor's Market Place provides an electronic

bulletin board where prime contractors, subcontractors and suppliers can communicate about quotes on specific letting items and work categories. Information is organized by letting date and posted in an easy-to-read report format and updated daily.

➤ **Stakeholder Inclusion**

IDOT seeks input into its DBE program through contacts with relevant stakeholders. As part of IDOT's partnering with minority and women business associations and industry associations, IDOT continues to participate in industry organizations, such as the Illinois Road Transportation Builders Association's EEO/DBE Subcommittee, Black Contractors United, the Hispanic American Construction Industry Association, the Association of Asian Construction Enterprises, the Federation of Women Contractors and the Women Construction Owners and Executives, among others.

➤ **Disadvantaged Business Revolving Loan Program**

In accordance with the Target Market Program, the Department held hearings to identify first-hand accounts of discrimination. A repeated concern was a lack of access to bonding and financing. Authorized by 20 ILCS 2705/2705-610, the Department recently adopted rules (92 Ill. Adm. Code 5) and implemented the DBE Revolving Loan Program to specifically address this concern. The DBE Revolving Loan Program provides for assistance to DBEs that are ready, willing, and able to participate in Department construction contracts with project financing costs through the availability of low-interest lines of credit.

All the above existing Departmental programs are administered by the Office of Business and Workforce Diversity and Division of Highways. The Department continues to explore other means to provide for increased opportunities for the DBE community, as mandated by the federal regulations.

**6. Summary**

The Department continues to pursue opportunities to diversify its business opportunities by fostering minority and female owned business inclusion in all modes of transportation.