

APPENDIX C.

Contract Data Collection

Keen Independent compiled data about ODOT and local agency transportation contracts and the firms used as prime contractors and subcontractors on those contracts. Keen Independent sought sources of data that consistently included information about prime contractors and subcontractors on FHWA- and state-funded contracts, regardless of firm ownership or DBE status. The study team compiled data on construction, engineering and other transportation-related contracts. Data collection included contracts awarded by local agencies receiving funds through the Local Agency Certification Program.

Appendix C describes the study team's utilization data collection processes in six parts:

- A. ODOT contract and agreement data;
- B. Local Certification Program contract data;
- C. ODOT bid and proposal data;
- D. Characteristics of utilized firms and bidders;
- E. ODOT and External Stakeholder review; and
- F. Data limitations.

A. ODOT Contract and Agreement Data

Keen Independent collected data on transportation-related construction and engineering contracts that ODOT awarded during the study period.

The study team examined:

- 476 ODOT-awarded contracts totaling \$1.6 billion from Construction; and
- 1,759 Purchasing and Contract Management System (PCMS) contracts or work order contracts for \$367 million.

ODOT construction projects. Keen Independent collected data on transportation-related construction prime contracts and associated subcontracts that ODOT awarded from October 2010 through September 2014. Throughout, the data collection focused on transportation-related contracts such as highway construction, bridge construction, road maintenance and related activities.

The primary information sources for construction contracts were ODOT Office of Civil Rights databases identifying dollars going to prime contractors and subcontractors for each project. ODOT created these tables from its contract database to provide information such as:

- Project and contract number;
- Description of work;
- Award date;
- Award amount;
- Amendment or change order amounts (when applicable);
- Location of work (i.e., region);
- Whether the contract included FHWA funding;
- Prime contractor name;
- Whether DBE goals were applied, and if so, level of goal; and
- For subcontractors, firm names, dollar amounts and type of work performed.

Engineering-related, other professional services and other services contracts. The study team also collected data on transportation-related engineering and other services contracts. ODOT administers consulting work through consultant work order contracts and “agreements to agree.” Keen Independent identified engineering-related contracts from the Purchasing and Contract Management System (PCMS) access database provided by ODOT. The PCMS database tables included consulting and other contracts that had activity (work order contracts — either standard or direct) during the October 2010 through September 2014 study period. Keen Independent reviewed these data to develop a refined list of contracts.

- ODOT administered a number of price agreements during the study period. Consultants received work through work order contracts issued under those agreements. Keen Independent analysis focused on work order contracts issued during the study period. This included work order agreements executed during the study period for price agreements awarded prior to October 2010. Keen Independent treated each work order contract as a stand-alone contract element.
- Keen Independent augmented engineering-related subcontract data with additional data that was collected from ODOT Procurement Office’s electronic file folders by Merina and Co.
- Some engineering-related contracts in the utilization analysis were not work order contracts and were awarded within the October 2010 through September 2014 time period. In the utilization analysis, Keen Independent counted total dollars for these contracts including any contract amendments.

The final data for engineering-related contracts included the following information about the agreement or work order contract:

- Agreement number (and work order contract or amendment number);
- Description of work;
- Award date;
- Award amounts;
- Project location;
- Whether the contract involved federal funding;
- Prime consultant name and address; and
- For each subconsultant (if any), name, address, work type and dollar amount.

After collecting the necessary data about transportation-related engineering prime contracts and subcontracts, the study team created electronic prime contract and subcontract tables for use in the utilization and other analyses.

Review of in- and out-of-scope contracts. The study team identified contracts that were out-of-scope for several reasons including funding type (e.g., FTA-funded), contract date (out of study period), contract type (Agreement to Agree or Price Agreements) or work type. Contracts that were marked as out-of-scope were reviewed by ODOT.

B. Local Certification Program Contract Data

Under its Stewardship Agreement with FHWA, ODOT administers FHWA funding that goes to local agencies throughout the state. ODOT established the Certified Program Office, Statewide Program Unit to administer these local agency contracts. Sometimes ODOT awards those contracts on behalf of the local agencies. In other instances, cities, counties, regional transportation agencies, other local agencies and tribal entities award transportation contracts and ODOT reimburses the local agencies using federal or state funds.

When federal funds are involved, USDOT requires local agencies to comply with federal requirements including implementation of the Federal DBE Program. In addition to any federal requirements, Oregon state law governs local government public works contracting.

Certification Acceptance agencies. Twelve Certification Acceptance (CA) agencies self-advertise, award and manage their own engineering and construction contracts awarded using local agency money from ODOT. The twelve agencies are six counties (Clackamas, Linn, Jackson, Lane, Marion and Multnomah) and six cities (Corvallis, Eugene, Gresham, Medford, Portland and Salem). ODOT administers the advertising, awarding and managing of all other local agency construction and engineering contracts.

Data collection. ODOT's Construction database included data for local agency contracts during the October 2010 through September 2014 study period. The study team examined 46 local agency prime contracts and 586 subcontracts totaling \$184 million from Construction data.

C. ODOT Bid and Proposal Data

To complete case studies of ODOT's contracting processes, Keen Independent analyzed firms bidding and proposing on a sample of ODOT construction contracts and engineering-related agreements.

- ODOT provided bidder information for all construction contracts, including from October 2009 through September 2014. Keen Independent examined the bidders on a sample of ODOT construction contracts.
- Keen Independent also collected information concerning proposers on all ODOT engineering-related contracts from October 2009 through September 2014. For a sample of these contracts, Keen Independent examined outcomes for proposals submitted by MBEs, WBEs and majority-owned firms.

D. Characteristics of Utilized Firms and Bidders

For each firm identified as working on an ODOT or local agency contract, Keen Independent attempted to collect business characteristics including the race, ethnicity and gender of the business owner. Keen Independent collected similar information for a sample of bidders and proposers (including those not receiving work). Firm-level data included company name, address, race/ethnicity and gender ownership, and whether the firm was DBE-certified.

Sources of information to determine whether firms were owned by minorities or women (including race/ethnicity) and whether companies were DBE-certified, included:

- State of Oregon DBE, MBE and WBE certification data;
- Study team telephone interviews with firm owners and managers (attempted with each utilized firm with a contract over \$10,000);
- Past ODOT data on firms certified as DBEs;
- Other review of firm information (i.e., information about ownership on firm websites);
- Information from Dun & Bradstreet; and
- ODOT staff and External Stakeholder review.

E. ODOT and External Stakeholder Review

ODOT and the External Stakeholder Group reviewed Keen Independent contract data during several stages of the study process. The study team met with ODOT staff and the External Stakeholder Group multiple times to review data collection, information the study team gathered, sample data for specific contracts and preliminary results.

ODOT and the External Stakeholder Group also reviewed the race, ethnicity and gender coding of firm ownership for utilized firms as Keen Independent prepared the utilization and disparity analyses.

F. Data Limitation

As discussed in Chapter 3, prime contractors do not typically use subcontracts to procure trucking services and materials supply on ODOT construction projects. Therefore, ODOT has information for trucking firms and materials suppliers used to meet DBE contract goals, but has very little information on other trucking companies and suppliers participating in ODOT contracts. This limitation would not appear to have a meaningful effect on overall study results, but limits the study team's ability to compare non-DBE and DBE participation as truckers and materials suppliers in the Chapter 8 overconcentration analysis.

ODOT had more comprehensive information about contract and subcontract awards than payments for those contracts and subcontracts. Therefore, for most contracts, Keen Independent collected and analyzed data on awarded amounts. This does not appear to materially affect results, however, based on further analysis described below.

- The study team obtained an ODOT analysis for FFY 2010 through FFY 2015 that compared awarded amounts to paid amounts for DBEs and for all firms. After removing one year that appeared to be an anomaly (FFY 2013), payments for DBEs were only 2 percent lower than total award amounts for these combined years, and total contract payments for all firms (DBEs and non-DBEs) were 1 percent lower than total award amounts.
- Because of how closely payments matched contract award data, the percentage of contract dollars going to DBEs was nearly identical when calculated based on payments or contract awards (differed by only one-tenth of a percentage point).