



2021-2023 Emerging Small Business Program Biennial Report (ORS 200.160)



Oregon Department of Transportation

Office of Equity and Civil Rights

December 2023

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Cover photo: ESB Certified firm Evergreen Developers, a construction manager and general contracting firm, at work on an ESB tree trimming project in Juntura, Oregon. Evergreen Developers, founded in 2016, offers solutions-based approaches to ecological restoration and infrastructure, and is a 2023 graduate of the Port of Portland Mentor Protégé Program, a program sponsored through supportive services funding of the ESB Program.

Photo Credit: Evergreen Developers, Jeremy Tjaden

Location: Juntura, Oregon, ODOT Region 5

Emerging Small Business Program
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The Oregon Department of Transportation's (ODOT) Emerging Small Business (ESB) Program serves to help Oregon's small business community overcome barriers to participate in Oregon's multi-billion-dollar public contracting opportunities. This program helps small businesses increase their capacities to perform and bid on contract, then expand their market shares. The ESB Program is race and gender neutral and does not discriminate based on race, color, sex, and/or national origin, when awarding and administering contracts criteria is based on the size of the business and not the individual applicant.

Established through the Oregon Legislature in 1989, the ESB Program dedicated funding had grown to \$10.2 million in the 2021-23 Biennium. ESB Program contracts are awarded throughout the five ODOT regions and can only be bid by and awarded to ESBs. These contracts are limited to \$250,000 or less, and are all promoted on OregonBuys, the State of Oregon's web-based eProcurement system.

The ESB Program Objectives are to:

- Short term – Provide immediate contract opportunities on ODOT contracts that are exclusively available to ESBs.
- Long term – Develop ESB firms' ability to grow and compete for larger ODOT contracts as a prime contractor, in an environment comprised of firms of similar size, establishing their ability to complete essential work across Oregon and gain necessary experience.

[Emerging Small Business Advisory Committee \(ESBAC\)](#)

The Emerging Small Business Advisory Committee (ESBAC) provides oversight of the program, setting and advising on policy decisions, makes plan recommendations and oversees

performance and metrics of the program. This committee is established in accordance with ORS 200.160, which states, *“the Oregon Transportation Commission shall appoint a committee to recommend plans whereby the Department of Transportation may assist emerging small business in overcoming barriers to participation in state public improvement and maintenance projects. The committee shall report biennially its recommendation to the commission and to the appropriate legislative committee.”* [1991 c.517 §2; 2005 c.683 §8].

The ESBAC is comprised of the following ODOT staff:

- Headquarters Business Manager
- State Maintenance & Operations Manager
- Chief Procurement Officer
- Facilities Service Manager
- Statewide Project Delivery Manager
- Delivery and Operations Administrator
- Office of Equity and Civil Rights Manager
- ESB Program Manager

The ESBAC also provides oversight of the ESB Program in areas such as project delivery, supportive services, and mentoring programs to meet the program’s main objectives.

The ESB Program is comprised of two main components:

- **Project Delivery** – The selection and management of public improvement and maintenance contracts for ESB firms.
- **Supportive Services** – Programs, small business resources, and technical assistance utilized to develop and aid in growing ESB firms.

HB3055: Increased ESB Program Contract Thresholds and Formal Procurement Process

On June 26, 2021, the Oregon Legislature passed HB3055, an omnibus bill that included language affecting ODOT's ESB Program. HB3055 increased the project limitation threshold for ESB projects from \$100,000 to \$250,000 per contract.

With the implementation of HB3055, the new increases in threshold limits for ESB projects responded to inflationary increases to labor, supplies, and business costs, and allowed ESB firms the opportunity to seek contracts up to the new \$250,000 limit for both Goods & Trade Services and Public Improvement projects while remaining within the limited competitive environment of the ESB Program.

In January 2022, implementation of HB3055 was achieved for 279C ESB contracts (Public Improvement) however, HB3055 as written prevented the implementation at that time of the contract threshold increase for 279B ESB contracts (Goods and Trade Services.)

On September 13, 2022, to fully implement the legislative intent of HB3055, OAR 731-147-0810 was adopted by the Oregon Transportation Commission, establishing the new threshold limitation for 279B ESB contracts (Goods & Trade Services) at the "not to exceed amount" of \$250,000. This action completed the implementation of HB3055 as intended increasing the threshold limits of all ESB contracts to \$250,000.

ESB projects at the greater threshold limits, may now qualify as formal procurement contracts. This formal procurement process includes Public Improvement projects that exceed \$100,000 (ORS 279.335 (1)(d)) and Goods and Trade Services contracts which exceed \$150,000 (ORS 279B.070(1)). Both of these are now required to meet the following:

- Bonding: Bid security, performance, and payment for all Public Improvement contracts valued over \$100,000
- Formal protest language
- Solicitation method on Oregon State's electronic procurement system (OregonBuys) can be done as the law allows.

Upon implementation of HB3055, these statutory requirements began to impact all ESB contracts above \$100,000 (279C) and \$150,000 (279B) respectively. ESB firms have not historically had to address these requirements for public contracts within the ESB Program. The formal procurement process for these larger contracts now provides a “next step” opportunity for ESB firms as they grow and expand to increase their ability to contract on larger ODOT transportation projects.

Impacts of HB3055 to ESB Contracts

The ESB Program determines biennial funding allocations to ODOT’s five regions, Maintenance and Facilities, and special projects at the beginning of each biennium. For the 2021-23 reporting period, most ESB projects had been selected before the implementation of HB3055 increased contract thresholds. Despite the traditional process of project planning early in the biennium, 32 contracts, spread throughout ODOT’s five regions were able to utilize the new threshold increases for the 2021-23 Biennium.

ESB firms, Regional and District Managers and Field Coordinators at ODOT’s Office of Equity and Civil Rights (OECR) reported greater project efficiency due to increased contract threshold limits with a similar contract process of smaller contracts, and the opportunity for ESB certified firms to experience the prime contractor relationship with ODOT on large projects. The increased contract threshold to \$250,000 allowed for greater value contracts to encourage participation for ESB’s willing to travel for opportunities with larger contract values.

The following contract types benefitted from the increased contract threshold:

- Fencing – security, upgrades, facilities, highway (7)
- Interstate Bridge LED lighting upgrade (1)
- Installation of delineators (1)
- Railroad crossing repair (1)
- Stockpile cleanup (1)
- ADA sidewalk (1)

- Tree removal / Brushing (2)
- “Welcome to Oregon” sign (1)
- Rock hauling / production (5)
- Paving (2)
- Shoulder widening (1)
- Crack seal (4)
- Stamped concrete project (1)
- Mile market replacements (1)
- Hermiston solar (1)
- Striping (1)
- Breakroom remodel (1)

The ESB Program Certification Process

The Certification Office for Business Inclusion and Diversity (COBID) facilitates the ESB certification process for Oregon qualifying businesses. ODOT’s OECR work closely with COBID regarding certifications and overall participation in the ESB Program. This partnership supports ESB certified firms which gain the benefit of ESB Program contracting opportunities and learned expertise by working on ODOT’s transportation-related projects.

Oregon small businesses may qualify for ESB certification when they meet the following criteria as defined by Oregon statute (ORS 200.170):

- Has principal place of business located in Oregon.
- Is an independent business and not a subsidiary of a larger firm.
- Is properly licensed and legally registered in the State of Oregon.
- For Tier 1: Has average gross receipts from the prior 3 years not exceeding \$1,972,996.84 for Construction firms; and not exceeding \$789,198.73 for Non-Construction firms having 19 employees or fewer.
- For Tier 2: Has average gross receipts from the last 3 years not exceeding \$3,945,993.70 for Construction firms; and \$1,315,331.23 for Non-Construction firms having 29 employees or fewer.

As of December 2023, there were 1,453 ESB certified firms in the state of Oregon. Approximately 25% of those businesses are construction related with the remaining 75% being non-construction-related and less likely to bid on ODOT transportation-related projects. During the 2021-23 Biennium, 1,035 ESBs were de-certified, however many of them reapplied for ESB certification and are reflected in current ESB certification numbers (1,453). During the 2021-23 Biennium, 265 ESBs graduated from the program, having exceeded the two-tier threshold income limitations or the 12-year threshold for participation in the program.

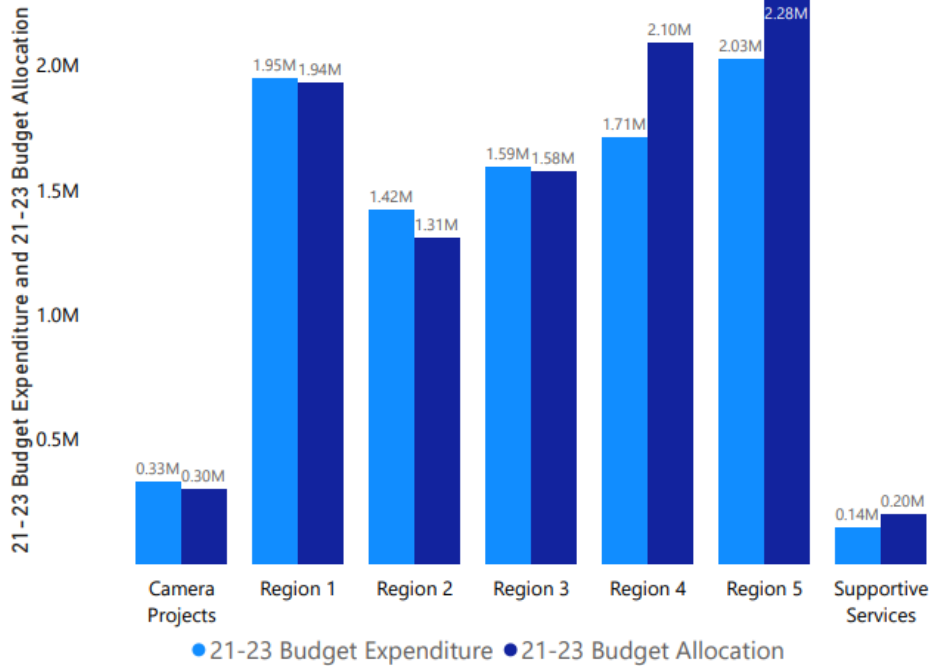
COBID and OECR conduct monthly meetings to review ESB certification data and trends, while continuously exploring ways to partner, including coordinated outreach to increase awareness of the benefits of the ESB Program and contracting opportunities for ESB certified businesses.

[ESB Program Funding and Project Delivery](#)

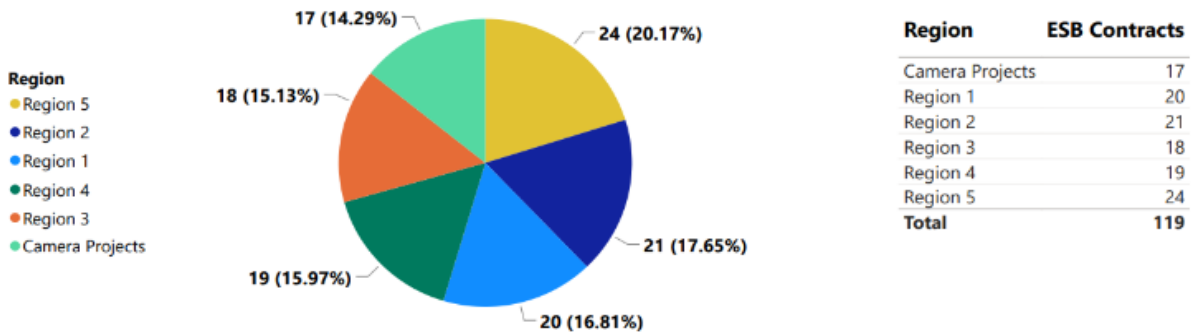
Funding for the ESB Program is defined in statute (ORS 200.190) and requires ODOT to dedicate up to one percent of the value of its highway construction contracts each biennium to the ESB Program. In the 2021-23 Biennium funding was set at \$10.2 million. The budget dedicated \$9.2 million to the ESB Project Delivery Program, \$200,000 for supportive services, \$300,000 for ODOT's security camera project, and \$500,000 for the Facilities/Maintenance Operation Branch. ODOT's region and district management staff select projects based on the needs of the region and the interest in creating contracting opportunities for ESB certified firms. In selecting projects, consideration is given to ensure that projects do not overuse one contract type, and that projects are being distributed as evenly as possible to ESB firms across the state.

ODOT Maintenance Managers and crews also encourage businesses they work with to become ESB certified, connecting them to ODOT's Field Coordinators who provide additional technical support and outreach through events like Connect-2-Oregon where they share the benefits of certification and the ESB Program. In the 2021-23 Biennium, more than 165 outreach events were attended or sponsored by COBID and OECR to promote the ESB Program and support ESB certified firms.

21-23 Budget Allocation VS. 21-23 Budget Expenditures



In the 2021-23 biennium, 45 ESBs were awarded contracts, resulting in the completion of 119 contracts; 102 of these were public improvement projects and 17 were facilities security camera projects. A total of \$9,038,628 in ESB project dollars were awarded to these ESBs to provide needed improvements and upkeep to Oregon’s transportation assets across the state. The breakdown is shown below:



ESB projects typically involve capital improvements, maintenance, safety, and sustainability, with specific projects varying widely by region based on regional or geographic needs. During the 2021-23 Biennium, statewide ESB projects included:

- “Welcome to Oregon” sign
- ADA ramp construction
- Facilities remodel, upgrades
- Delineator post installation
- Concrete median improvements
- Rock hauling, production
- Crack sealing
- Landslide clean-up
- Shoulder widening
- Grading, slope flattening
- Solar panel installation
- Interstate Bridge LED lighting
- Railroad crossing repair
- Stockpile clean-up
- Stamped concrete
- Litter clean-up
- HVAC installation
- Tree removal / brushing
- Fencing – security, highway
- Gate installation, upgrades
- Stump grinding
- Culvert replacement
- Paving
- Striping

NAICS Codes

The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

When a firm applies for COBID certification, COBID assigns NAICS codes to that firm based on capabilities or licenses to perform, according to the firm's qualifications and experience. It is common for certified firms to include multiple NAICS codes in their certification profile provided their certification application clearly identifies how the firm is eligible to perform under each NAICS code.

ODOT and COBID use NAICS codes data to evaluate the types of contracts that are represented in ESB Program contract awards as well as to identify areas where ESBs are needed to support ODOT transportation contracting, or areas of increased ESB contract opportunities. The following chart shows the top NAICS codes of certified ESBs that were awarded contracts through the ESB program by the number of firms, total contract dollars and percentage of the 2021-23 Biennium ESB Program funding utilized.

NAICS Code	No. of Firms	Contract dollars awarded	% of ESB funds
EXCAVATION CONTRACTORS	18	\$1,158,557.70	11.4%
DUMP TRUCKING (E.G. GRAVEL, SAND, TOPSOIL)	16	\$1,294,580.60	12.7%
ALL OTHER SPECIALTY TRADE CONTRACTORS	15	\$1,269,127.60	12.4%
CONSTRUCTION EQUIPMENT (EXCEPT CRANE RENTAL WITH OPERATOR)	14	\$1,053,531.40	10.3%
CUTTING AND TRANSPORTING TIMBER	12	\$1,002,603.40	9.8%
LOG HAULING LOCAL	12	\$1,002,603.40	9.8%
RUBBLE HAULING LOCAL	12	\$1,002,603.40	9.8%
GRADING CONSTRUCTION SITES	10	\$690,958.30	6.8%
ASPHALT COATING AND SEALING, RESIDENTIAL AND COMMERCIAL PARKING LOT	9	\$988,779.20	9.7%
BUILDING DEMOLITION	9	\$544,385.00	5.3%

FINISH CARPENTRY CONTRACTORS	9	\$949,739.10	9.3%
FOUNDATION DIGGING (I.E. EXCAVATION)	9	\$590,726.60	5.8%
POURED CONCRETE FOUNDATION AND STRUCTURE CONTRACTORS	9	\$721,063.22	7.1%
SITE PREPARATION CONTRACTORS	9	\$548,780.12	5.4%
FENCING CONTRACTORS (EXCEPT ELECTRONIC CONTAINMENT FENCING FOR PETS)	8	\$762,744.00	7.5%

Supportive Services for the ESB Program

In the 2021-23 Biennium, \$143,636 was spent to support ESBs. These supportive services were provided through various means, including technical assistance, event sponsorships with industry and trade partners, a Mentor-Protégé Program, and through the Equity Line newsletter.

Sponsorships with Industry Partners

ODOT recognizes the value in building trusted relationships with our industry and trade partners who support the ESB Program through trainings, technical assistance, and networking. The ESB Program allocates funding for these supportive services to sponsor and engage with these industry partners through trade shows and expos, conferences, trainings, workshops, mentorship programs and other specialized resources. Oregon Association of Minority Entrepreneurs (OAME), National Association of Minority Contractors (NAMC), Professional Business Development Group (PBDG), LatinoBuilt, Business Diversity Institute (BDI) and BESThq, are just a few of ODOT’s valued partners.

Mentor Protégé Program

The Mentor-Protégé Program pairs ESBs with larger, more experienced contractors and consultants as mentors to provide guidance and direction to ESB firms wishing to improve their capacity to work on ODOT transportation-related projects. This program sponsors 3-year cohorts, spanning across biennia, to provide a high quality and long-lasting small business management education for ESB firms.

The Mentor-Protégé Program is managed in partnership with the Port of Portland. For each 3-year cohort, five ESB certified firms are mentored in business topics including marketing and office administration to on-site operations and job site management. Development of business plans, management of working capital, and debt reduction are frequent topics addressed in the first year of these mentor pairings which emphasizes business stability and resilience.

Through the program, protégé firms expand their professional network of potential business partners, learn to seek out resources to bridge identified gaps in business knowledge and management, and meet a host of active, committed business and technical contacts. This helps to enrich the protégés' business practices as they grow. Success of this program is realized when these firms enter the ODOT bidder pool as active participants, thus increasing competition, delivering high quality projects, and building overall transportation contracting capacity.

Equity Line Newsletter

In the 2021-23 biennium, OECR distributed nine Equity Line newsletters. These newsletters featured ODOT's current(?) news for small businesses, public contracting opportunities, upcoming networking events, apprenticeships and mentorship news, and training and resources available to ESBs across the state of Oregon. Small Business Spotlight articles highlighted Oregon businesses, publishing their stories and successes. The Equity Line newsletter was distributed to over 9000 recipients including certified businesses, contracting firms, and other interested business partners, and has a subscriber engagement rate of 28%, exceeding ODOT's average agency newsletter engagement rate of 19-20%, and the private sector newsletter engagement rate of 5%.

Conclusion

Since 1989, ODOT's ESB Program has contributed to the building of Oregon's infrastructure by assisting small businesses in overcoming barriers to competing for public improvement and maintenance contracts through project delivery, supportive services, and mentor

protégé aspects of the program. The ESB Program through the ESB Advisory Committee, in partnership with ODOT and the Office of Equity and Civil Rights, has supported the growth of this program from \$3.5 million in 1989 to \$10.2 million in contracting opportunities across ODOT's five regions. The ESB Program's newly increased contract threshold, from \$100,000 to \$250,000 will create larger public contracting opportunities for the statewide ESB community, resulting in more experienced and competitive firms, and ensuring Oregonians continue to receive quality transportation projects at fair market value.