

New York State Comptroller
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Metropolitan Transportation Authority

Selected Aspects of the Metropolitan
Transportation Authority Small Business
Development Program

September 2026 | Report 2023-S-47

Prepared by the Division of State Government Accountability

Audit Highlights

Objectives

To determine whether the Metropolitan Transportation Authority (MTA) Small Business Development Program (SBDP) has a formal process for prequalifying contractors that apply for SBDP and for equitably selecting contractors to bid on the program's contracts. Additionally, we determined whether the MTA has an outreach program to grow the number of firms that join SBDP and provides support services to the contractors throughout the program. The audit covered the period from January 2018 to July 2025.

About the Program

Historically, in the construction industry, there have been significant obstacles to the ability of small businesses to compete for public work contracts. In 2010, a New York State law was enacted to enable the MTA and its affiliates and subsidiaries to initiate a mentoring program that affords participating small businesses the opportunity to gain public work construction management experience and training.

In 2010, the MTA launched its SBDP to help eligible small business construction firms develop and grow by establishing stable, long-term business relationships with the MTA. SBDP includes the Small Business Mentoring Program (Mentoring Program), which is funded by the State, and the Small Business Federal Program (Federal Program), which is federally funded. The Mentoring Program consists of the entry-level Tier 1 and Tier 2. The Emerging Contractors Program is a subset of Tier 1 that includes firms that do not yet meet the financial requirements for Tier 1.

A small construction business wishing to participate in SBDP must apply for admission and be prequalified by the MTA for specific construction industry trades. The application and prequalification process is designed to ensure that participants in the Mentoring Program have a sufficient foundation of experience, finances, and skills to demonstrate that, with the assistance provided by the MTA, they can complete small MTA projects safely, on time, and within budget.

SBDP prequalifies applicants and selects bidders for its projects, which are then put on a bidder's list and forwarded to the MTA's Department of Diversity and Civil Rights (DDCR) for approval. However, if a contractor doesn't submit financial statements on time, has a lien or judgment against them, or has bonding that has expired, they are placed on a Bid List Hold report and cannot be selected as a bidder for any SBDP contracts until the hold is cleared.

DDCR conducts outreach to attract small construction businesses to participate in SBDP. Additionally, DDCR offers small businesses training courses to help them learn, earn, and grow. The MTA also hired a consulting firm to provide guidance to small business contractors in the program during MTA construction projects and to provide staffing support.

From January 2018 to December 2023, SBDP received 582 applications and admitted 257 small businesses to the program. The applicants are small businesses located in New York City or other states with a presence in New York State. For the 330 applications with complete addresses, 229 businesses were located in the five boroughs of New York City, and 69 were located in Nassau, Suffolk, Westchester, Rockland, and Orange counties, which are serviced by the MTA. One business was in a State county outside of the MTA service area. The remaining 31 businesses were located in New Jersey, Washington D.C., and Florida. In addition, from January 2021 to December 2023, the program awarded 178 contracts totaling about \$168.5 million.

Key Findings

Overall, there was a lack of formal written procedures for many aspects of SBDP, including the application and procurement processes, the identification of bidders, and the Mentoring Program's training and outreach.

Although SBDP had procedures for identifying bidders, the steps to determine contractors' eligibility were not documented. We found errors or inconsistencies in the bid criteria spreadsheets—the documents SBDP uses to select which contractors will be provided with an opportunity to bid on individual contracts—such as not meeting bonding capacity requirements, not being trade-qualified, or lacking experience on a similar-sized project. As a result, we found eligible contractors that should have been selected to bid but were not.

Small business contractors are required to submit an accurate and complete application when they request to participate in SBDP. However, we found that 10 of 68 applications reviewed were incomplete. Furthermore, the application requires completion of a Statement of Personal Net Worth, which includes the owner's assets and liabilities.

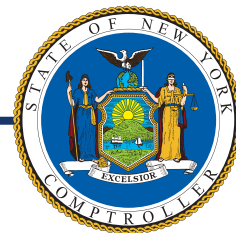
Based on rules in place at the time, upon a firm's notification of acceptance into SBDP, the firm is required to begin attending DDCR's training courses immediately. Failure to complete all courses will automatically disqualify a firm from participating as a bidder for SBDP contracts until it has completed all required courses. Of 85 firms, seven (8%) did not complete any courses, and 39 (46%) completed only some courses, ranging from one to 17.

The MTA has a 14-county service region, but DDCR's outreach was limited to only four counties. As a result, small construction businesses located in the other 10 counties may have missed the opportunity to hear about and apply for SBDP. Consequently, the MTA's ultimate goal to increase the pool of qualified contractors that can complete MTA projects safely, timely, and within budget may not be achieved.

DDCR also did not have a formal written process and did not maintain records of the outreach it conducted. For example, DDCR officials did not provide evidence for 67 of 84 events they attended.

Key Recommendations

- Implement a process such as sequential numbering and a centralized log for all incoming applications to ensure completeness and prevent applications from being lost.
- Revise the procedures for the selection of bidders to include how the Bid List Hold process should be implemented and to better clarify how bidders are selected and evaluated, and document the basis for how decisions are made to improve transparency and decrease the appearance of subjectivity.
- Develop clear and concise written procedures pertaining to the contract procurement process, including retention requirements for SBDP.
- Develop written policies and procedures related to the training of firms in the Mentoring Program and for maintaining records of training materials that provide appropriate supporting documentation of attendance.
- Develop and formally document outreach (business initiatives) activities for the entire MTA region, including, but not limited to, preparation of the annual plan, attendance at events, measures of the activities, contacting prospective contractors, and follow-up efforts.



**Office of the New York State Comptroller
Division of State Government Accountability**

September 30, 2026

Janno Lieber
Chair and Chief Executive Officer
Metropolitan Transportation Authority
2 Broadway, 20th Floor
New York, NY 10004

Dear Mr. Lieber:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Selected Aspects of the Metropolitan Transportation Authority Small Business Development Program*. This audit was performed pursuant to the State Comptroller's authority under Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Division of State Government Accountability

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Glossary of Terms

Term	Description	Identifier
MTA	Metropolitan Transportation Authority	<i>Auditee</i>
Contracts	C&D's Contracts Unit	<i>Unit</i>
C&D	Construction and Development	<i>MTA Agency</i>
DDCR	Department of Diversity and Civil Rights	<i>MTA Department</i>
Federal Program	Small Business Federal Program	<i>Key Term</i>
Mentoring Program	Small Business Mentoring Program	<i>Key Term</i>
SBDP	Small Business Development Program	<i>Key Term</i>

Background

Historically, in the construction industry, there have been significant obstacles to the ability of small businesses to compete for public work contracts. In 2010, a New York State law was enacted to enable the Metropolitan Transportation Authority (MTA) and its affiliates and subsidiaries to initiate a mentoring program that affords participating small businesses the opportunity to gain public work construction management experience and training.

In 2010, the MTA launched its Small Business Development Program (SBDP), which provides participating small businesses with mentoring services from an experienced consulting firm and the opportunity to compete with other small businesses for designated public work contracts.

SBDP aims to help these small businesses develop and grow by establishing stable, long-term business relationships with the MTA. The program is jointly led by the MTA's Construction & Development (C&D) and Department of Diversity and Civil Rights (DDCR).

SBDP includes the Small Business Mentoring Program (Mentoring Program) and the Small Business Federal Program (Federal Program). The Mentoring Program is a State-funded subprogram, while the Federal Program is a federally funded subprogram.

The Mentoring Program consists of the entry-level Tier 1, which includes the Emerging Contractors Program, and the more advanced Tier 2. The Emerging Contractors Program is a subset of Tier 1 that meets all prequalification requirements except for the financial requirements. Participants remain in the Emerging Contractors Program until they meet the financial requirements, at which point they transition to Tier 1.

Tier 1 provides project opportunities valued at up to \$1 million (the threshold changed to \$1.5 million in October 2023) and includes formal training, coordination with experienced program manager mentors, and the chance to perform as a prime contractor with the MTA.

Upon successful completion of the 4-year Tier 1 program, the graduate firm is eligible to apply to Tier 2, an additional 4-year program where project value can reach up to \$3 million. Mentoring Program firms may also transition to the Federal Program if they meet the requirements and are accepted. The Federal Program is a 3-year program for companies with gross revenues of up to \$5 million. In October 2023, the law that created the Mentoring Program changed, increasing the number of years a small business can remain in the program from 4 to 5 years, and the project size a small business can compete for from \$3 million to \$5 million. SBDP issued a memorandum effective January 5, 2024 regarding the application of the revised legislation.

A small construction business wishing to participate in the MTA's SBDP must apply for admission and be prequalified by the MTA for specific construction industry trades. The application and prequalification process is designed to ensure that program participants have a sufficient foundation of experience, finances, and skills to demonstrate that, with the assistance provided by the MTA, they can complete small MTA projects safely, on time, and within budget, and continue to grow.

Firms can submit their applications and all related documentation online through the MTA website or New York State's Minority and Women-owned Business Enterprise (MWBE) website, or by mail. Applications submitted online are received via email to a shared mailbox, which is checked weekly for new applications; the New York State MWBE website is checked monthly.

The work of administering SBDP is divided into two separate scopes (or units). Scope A, managed by C&D, handles prequalification, bidder selection, contractor mentoring, and project and construction management. Scope B, managed by DDCR, handles program outreach, marketing, recruitment, training, retention, contractor financing (loans), bonding, and graduation transition. Scope B also signs off on bidding lists and contract awards.

DDCR attends events to reach potential Mentoring Program participants; offers training courses to the small businesses to help them learn, earn, and grow; approves bidders' lists proposed by SBDP; and presents quarterly reports to the MTA Board's Diversity Committee regarding the progress of the program.

MTA hired a consulting firm to provide guidance to small business contractors in the program in the performance of MTA construction projects and to provide staffing support to both Scope units.

From January 2018 to December 2023, SBDP received 582 applications and admitted 257 small businesses to the program. For the 330 applications with complete addresses, 229 businesses were located in the five boroughs of New York City, and 69 were located in Nassau, Suffolk, Westchester, Rockland, and Orange counties, which are serviced by the MTA. One business was in a State county outside of the MTA service area. The remaining 31 businesses were located in New Jersey, Washington D.C., and Florida. In addition, from January 2021 to December 2023, the program awarded 178 contracts totaling about \$168.5 million.

Audit Findings and Recommendations

Overall, there was a lack of formal written procedures for many aspects of SBDP, including the application and procurement processes, the identification of bidders, and the Mentoring Program's training and outreach.

Although SBDP had procedures for identifying bidders, the steps for determining contractors' eligibility were not documented. We found errors or inconsistencies in the bid criteria spreadsheets—the documents SBDP uses to select which contractors will be given an opportunity to bid on individual contracts—such as not meeting bonding capacity requirements, not being trade-qualified, or lacking experience on a similar-sized project. As a result, we found eligible contractors that should have been selected to bid but were not.

C&D's Contracts Unit (Contracts) administers procurement on behalf of the program; however, it does not have written procedures for its procurement process for SBDP contracts. Officials advised us that they follow certain MTA procedures, such as a technical review, to determine whether the contractor is qualified to perform the project work. Although the documents provided stated that a technical review was done, C&D Contracts did not provide documentation for any of the 26 firms we sampled.

DDCR did not have formal policies or procedures for its training program; however, DDCR officials explained their training practices and processes for SBDP. Of 85 firms, seven (8%) did not complete any training courses, and 39 (46%) completed only some courses, ranging from one to 17.

DDCR also lacks a formal written program or process for its Mentoring Program outreach and keeps limited support for its three outreach methods. There is no documentation confirming attendance at most events, and limited evidence that email invitations were sent to new contacts or companies on various lists. Several companies that were supposedly invited did not have email addresses on record.

Small Business Development Program

Application Process

Small business contractors are required to submit an accurate and complete application when they request to participate in SBDP. However, we found that 10 of the 68 applications we reviewed were incomplete. Further, there is no log or control mechanism to track the receipt of applications.

SBDP written prequalification procedures outline the requirements that a small business applicant must meet to be prequalified for each of the three SBDP tiers, including the Emerging Contractors Program. Generally, a small business applicant for Tier 1 must have been in business at least 3 years and complete or provide:

- A Statement of Personal Net Worth evidencing net worth not exceeding \$3.5 million per owner. (Federal Program: \$1.32 million per owner.)
- Proof of Occupational Safety and Health Administration training.
- Trade licenses (e.g., electrical, plumbing, mechanical).
- Financial statements or tax returns for the prior 3 years substantiating gross revenues not exceeding \$3 million. (For Tier 2, \$5 million.)
- For Tier 1 applicants, references that they successfully completed a minimum of two \$25,000 commercial construction projects or higher in the trade or as a contractor within the last 3 years. (For the Mentoring Program's Tier 2 and Federal Program applicants, a minimum of two \$500,000 construction projects or higher successfully completed in the last 3 years.)

SBDP does not maintain a log or any other control mechanism to account for applications received by mail. Furthermore, SBDP has no process in place to determine the number of applications it has received, as they are not numbered upon receipt. SBDP would only know an application was missing if a firm that submitted the application followed up on the status of its application. This increases the risk of skipped applications, decreases the ability to resolve disputes related to "missing applications," creates data integrity issues such as the inability to verify reporting totals (received, rejected, or approved), and generally makes applications harder to track.

As part of the prequalification process, SBDP must also conduct a background check of the applicant, including an integrity check. Furthermore, once a firm is prequalified for any tier, it is SBDP's practice to conduct periodic reviews of public database searches every 90 days to ensure the applicant remains eligible. For example, the database searches include Dun & Bradstreet, the System for Award Management, and New York State's Lobbying Law List, among others.

We reviewed 68 applications and determined that one contractor submitted its application without providing its required plumbing trade license, but the firm was prequalified, nonetheless. It was accepted into the Emerging Contractors Program because it did not initially meet the financial requirements for Tier 1 and later transitioned to Tier 1 as a prequalified firm.

Nine Statement of Personal Net Worth forms, including four from Tier 1, were missing required information in portions of the form, including two applications with final net worth missing. For example, Section 5 of the form (Other Personal Property and Other Assets) must be completed when applicants have filled out values in one or more of the following applicable fields: automobile, IRA, accounts receivable, or other assets and property.

Financial Dashboard

As part of the prequalification process, SBDP creates a financial dashboard and performs a financial analysis for each firm, using 3 full years of financial statements to assess their fiscal health through calculations of return on assets, net profit margin, and debt-to-equity ratio,

among others. One applicant applied to Tier 1 on January 5, 2023 and met all prequalification requirements except for providing 3 years of financial documentation; ultimately, the applicant was admitted into the Emerging Contractors Program on May 4, 2023. On March 26, 2024, the applicant was transitioned to Tier 1 based on its financial dashboard's performance. However, SBDP used only quarterly data for the final year of the analysis rather than the full 3 years, as required. In response to our preliminary findings, SBDP stated the decision was based on the significant financial gains the firm demonstrated in the first fiscal quarter of 2024. However, the requirement is for 3 years of financial information (which is sufficient for analysis) and accepting just one quarter's worth of data from one firm while requiring 3 years from others results in an inconsistent application of program criteria, increasing the risk of errors and unequal treatment. Moreover, comparing shorter time frames of data to longer ones can skew the financial ratios and make the firm appear to be in better financial condition than it actually is.

Periodic Financial Assessment

SBDP conducts periodic reviews of prequalified contractors to ensure they remain compliant with the program requirements. We were advised by SBDP that its practice was to perform these checks every 90 days. While the 90-day review cycle was documented in 58 of 68 files we reviewed, we found that the other 10 contractors did not have periodic reviews performed. In addition, seven files were missing documents or other relevant information pertaining to the periodic reviews.

In its response to our preliminary findings, SBDP stated that it has the authority to conduct a periodic review of a firm at any time during that firm's participation in the program. However, these reviews are discretionary and not subject to any specific timing or frequency requirements. If this is indeed the case, the MTA should clearly outline this in written procedures, including when a review is necessary and how it should be documented. When employees' informal practices do not match what the employer asserts is happening, it creates a control gap where work is being done differently than intended, which increases the risk of inconsistent and unsupported decisions. In this case, employees conducted reviews for 58 of the 68 sampled firms every 90 days, but in 10 cases, they did not do what they believed was required. It therefore appears the work was done inconsistently with what was actually required.

Recommendations

1. Develop procedures to address:
 - Actions taken by SBDP when information is missing from the Statement of Personal Net Worth.
 - When a periodic review is needed and how it should be documented.
2. Implement a process such as sequential numbering and a centralized log for all incoming applications to ensure completeness and prevent applications from being lost.

Bid List

SBDP uses a bid list criteria spreadsheet (spreadsheet) to create a bidder's list for each contract to be awarded. SBDP has written procedures outlining the process for selecting prospective bidders for all small business construction projects in each program tier (Tier 1, Tier 2, and the Federal Program). The bidder selection process starts with the SBDP Mentor Construction Manager identifying the full list of prequalified firms within the tier appropriate to the contract, based on the contract's dollar value and funding, and issuing the list of eligible bidders to SBDP. It conducts a review of the full list of contractors, using a spreadsheet. The criteria include the specific trade required for the project (including general contractors) and experience with similar size projects.

According to SBDP officials, a contractor is placed on a Bid List Hold when an issue arises, such as submitting updated financial statements late, a lien or judgment against them, or their bonding having expired. If SBDP places a contractor on a Bid List Hold, the contractor cannot be selected as a bidder for any SBDP contracts until the hold is cleared.

Bid List Hold

SBDP did not have written procedures for the creation of the Bid List Hold reports. While SBDP has procedures for the selection of bidders, they do not include the process to review the Bid List Hold reports.

We reviewed the Bid List Hold reports and related spreadsheets used to select bidders for a sample of 50 contracts and found errors or inconsistencies on 17 spreadsheets as follows:

- Two spreadsheets each had one firm that was listed on the Bid List Hold report. The firm was selected as a bidder but not awarded a contract.
- One spreadsheet with a firm that was on the Bid List Hold report was selected as a bidder and awarded the contract.
- Two spreadsheets each had one firm (same firm) that was on the Bid List Hold report, but the firm was not listed on the spreadsheet to select bidders. Therefore, the Bid List Hold report and the spreadsheet were inconsistent.
- Twelve spreadsheets had one or more firms on the Bid List Hold report that should have been listed as "on hold" on the spreadsheet.

In response to our preliminary findings, SBDP officials disagreed and stated that "Being on a bid list *hold* is not-one-in-the-same as being *ineligible* to bid. Technically, a business may be eligible (based on the eligibility criteria specified at that point in time); however, if the business is on hold, then, even if they are otherwise eligible, then they will be *held back* from being selected until the matter in question is resolved."

When SBDP allows a firm on a Bid List Hold the opportunity to bid and, at the same time, denies this opportunity to bid to another firm that is also on a Bid List Hold, this is inconsistent and another example of why written policies and procedures are needed, as having employees

who have different understandings of the process can lead to inconsistencies in how bidders are treated. Moreover, it is SBDP's practice to have a second person review the bid list criteria spreadsheet after it is prepared. However, there was no evidence the second checks were done and this may also have contributed to some of the inconsistencies noted.

Bid List Criteria Review

If it's necessary to reduce the bid list, contractors that pass the bid list criteria review are ranked based on factors such as the least number of bids in the program in the prior 12 months, the longest time in the program without winning a contract, and the lowest number of active projects (SBDP generally requires six bidders, as contracts cannot be awarded without at least three bids from contractors). The bidder selection and contractor rankings are then forwarded to DDCR for its input on the selection of bidders.

According to SBDP's selection of bidder's procedures, firms in Tier 2 and the Federal Program must demonstrate that they secured annual surety bonding for the value of the project estimated by the engineer. To determine compliance with the procedures, we reviewed the 25 Tier 2 and Federal Program contracts. We found that five firms were incorrectly listed as not having sufficient bonding capacity. Consequently, these firms were excluded from further consideration in the bidding process. For example, one firm from the Federal Program had available bonding capacity of \$4.6 million as of October 3, 2022, while the engineer's highest range estimate for the project was \$2.5 million. That firm should have been considered as a bidder for the project, but was not.

In addition, we found five of 10 Tier 1 spreadsheets and one Federal Program spreadsheet incorrectly listed contractors as not meeting the requirements for a similar-sized project. For example, the estimate on one Tier 1 spreadsheet was listed as less than \$150,000. This would indicate that all firms should be eligible; however, the determination for 84 firms (that were listed in the spreadsheet) was shown as "No." SBDP indicated that the contract was selected to be an Emerging Contractors Program project; therefore, the non-Emerging Contractors Program firms were effectively separated out, leaving only the Emerging Contractors Program firms to be evaluated. We note that the spreadsheets did not show firms separated out or any indication that only Emerging Contractors Program firms should be evaluated, and why.

For the Federal Program spreadsheet, three firms listed as "No" in the "Similar Project Size" column met the required test (contractor's largest project times 150% exceeds the low value of the engineer's estimate).

In addition, on three Tier 1 spreadsheets, firms were incorrectly listed as not meeting the required percentage of completion on their current project. For example, one spreadsheet listed four firms as "No," although the firms were not previously awarded any contracts. For another spreadsheet, the MTA stated that because the two firms were confirmed to be not-trade-qualified already, this criteria was not relevant.

The practice of carrying over data from a previous spreadsheet without updating it for the current contract can result in inaccurate information. For example, SBDP sent DDCR an email

with four memos for four contracts attached, requesting review and approval. Two were for our sample contracts, where we noted issues with the spreadsheet. The entire spreadsheet was provided for review but contained erroneous information that was carried over.

Additionally, on three different spreadsheets, there were a total of six instances in which firms were not given an opportunity to bid, even though they should have been, because they had the lowest number of bid opportunities in the last 12 months than the firms that were ultimately selected to bid. For example, one firm was listed as having zero prior 12-month bid opportunities, yet it was not selected to bid on two separate projects.

We were advised that the target number of bidders is five or six, although more may be selected. One project had six firms selected to bid, including two that were equal in all aspects of the hierarchy; however, only one firm was placed on the bid list (as the sixth and final bidder). There is no formal procedure regarding this part of the process. Furthermore, there is no documentation regarding the decision-making as to why these firms, otherwise ranked equally, could not all have been included in the population of bidders.

There was no written procedure that a firm could be placed on the bidders' list provided that it was not on a bid list for another contract. However, we found that firms were incorrectly not placed on a bid list for this reason. SBDP officials stated that the procedure was in effect since 2021 but did not have any documents to support their statement.

In response to our findings, SBDP disagreed that the spreadsheets were erroneous, but its explanations were not supported. For instance, one reason SBDP cited for excluding one firm was that its bonding package was not updated annually, as required. However, our review indicated that the firm's new bonding letter was received and valid at the time the list was assembled. For the three firms listed as "No" in the "Similar Project Size" column that met the required multiplier test, SBDP officials stated that the list generated resulted in sufficient vendors for a bid whose past project size was "just right." However, using an undefined process to exclude firms from a bid creates a risk that vendors are eliminated based on unclear or subjective criteria, reducing fairness and competition. Furthermore, SBDP officials stated in their response to our preliminary findings that "the trade-qualified column exists on Bid List Criteria Spreadsheets as a working column to be used when consolidating qualified firms that have been sourced from multiple trade-specific columns into a single filterable column" and that the "Trade Qualified" column is rarely used. However, when we sought to understand how SBDP used the spreadsheet to identify eligible firms as bidders for its projects, we were informed that the firms needed to be "Trade Qualified" for a trade relevant to the project, and a "No" in this column would remove the firm from consideration.

Recommendation

3. Revise the procedures for the selection of bidders to include how the Bid List Hold process should be implemented and to better clarify how bidders are selected and evaluated, and document the basis for how decisions are made to improve transparency and decrease the appearance of subjectivity.

C&D Procurement

Procurement Process

C&D Contracts administers the contract procurement process on behalf of SBDP but does not have formal written procedures. Managers described the process they follow; however, several steps required for a contract award were not documented. For example, SBDP's documents indicated that a technical review (qualification hearing) was conducted to confirm that the contractor was qualified to undertake the project based on prior experience. However, there was no documentary evidence that this review was performed for all 26 firms we sampled.

In addition, SBDP officials informed us that firms on a bidder's list might be excluded from other contracts while they are on the list. However, SBDP did not promptly release firms from the bidder's list once the contract was awarded. There is no support that the firms from all 26 contracts were released timely to bid on other projects.

Survey of Program Participants

We sent canvass letters to all 161 firms identified from the bidder's lists for our sample of 50 small business contracts awarded in order to obtain information regarding the firms' experience with SBDP. Thirty-nine firms responded, 109 firms did not respond, and 13 letters were returned as undeliverable.

Nineteen of the 39 firms that responded had recommendations to improve the procurement process, including:

- Provide firms with more opportunities to bid.
- Provide clearer and more detailed project scope details.
- Provide scope details earlier in the process.
- Ensure the firm's trade is compatible with the project they are invited to bid on.
- Lower the bonding capacity required for Tier 2.

We passed these recommendations on to the MTA and recommend that it periodically survey its contractors to improve the program.

Recommendations

4. Develop clear and concise written procedures pertaining to the contract procurement process, including retention requirements for SBDP.
5. Survey the small construction businesses in SBDP for their experience with the program.

Department of Diversity and Civil Rights

Training Program

The MTA hired a consulting firm to provide guidance to small business contractors in the performance of MTA projects. The consultant also assisted the contractors in learning and improving the skills necessary to compete for and perform MTA construction contracts. Additionally, when a contractor was awarded an SBDP contract, the consultant helped guide the contractor through the necessary activities to deliver a quality project safely, on time, and within an established budget. This training helps provide assurance that small business contractors have the proper knowledge to bid and work on MTA contracts.

While DDCR did not have formal written policies or procedures for the training program, DDCR officials explained their training practices and processes for SBDP. Additionally, the MTA's website displays the most recently issued SBDP Training Bulletin, which explains the training program and the courses offered. DDCR provided us with the most recent Training Bulletin, issued in September 2021.

The 2021 Training Bulletin provides additional information about the training program requirements. According to the bulletin, firms accepted into the Mentoring Program before the start of a semester are required to complete all 18 courses within that semester. (The course curriculum is offered in two semesters: fall and spring. Each consists of one course per week for 15 weeks, with the fall semester from September to November/December and the spring semester from March to June.) If accepted at any point after the start of a semester, firms may complete the full 18 courses within a two-semester period. However, firms are required to begin attending courses immediately upon notification of acceptance. Failure to complete all courses will automatically disqualify a firm from participating as a bidder for contracts until it completes all required courses. Upon completion of the 18-course program, each successful firm will receive a certificate of completion from the MTA.

We reviewed a judgmental sample of training documents for 85 small business contractors for the period from spring 2018 to fall 2023. The documents included registration forms, attendance records, and certificates of completion. We determined that seven firms (8%) did not complete any training courses, 39 firms (46%) completed some training courses (ranging from one to 17), and 39 firms completed all required courses. Of 46 firms that were prequalified or graduated, 29 (63%) did not complete their training within the required time frame, including 15 that did not begin their training the semester after they were accepted.

In response to our preliminary findings, DDCR officials stated they now intend to change their position to allow a firm to start the program and be awarded a contract without completing any training. Further, that firm could leave the program, be readmitted, secure contracts, or be placed on the bid list without completing training. We met with a DDCR official who advised us that DDCR was in the process of creating written procedures to reflect the practices.

However, this does not address that firms were removed from the program for missing classes or not completing the training courses.

Class Attendance

DDCR maintains a spreadsheet to document class attendance. A checkmark or “X” is entered in the sheet to document a firm’s training attendance and links the company’s name and the class offered on that day. However, a spreadsheet is not sufficient evidence of completion because it does not prove attendance actually occurred, does not show completion of required content, lacks supporting evidence, and is easy to alter. However, when additional documentation was requested, such as Zoom lists of class participants or any other form of class attendance records, no additional documentation was provided.

In response to our preliminary findings, DDCR stated it is confident that the current tracking method is sufficient. Nevertheless, DDCR will upgrade its Zoom account to enable the generation of a meeting attendance report that lists participants.

Recommendation

6. Develop written policies and procedures related to the training of firms in the Mentoring Program and for maintaining records of training materials that provide appropriate supporting documentation of attendance.

Outreach to Small Business Contractors

DDCR officials told us they develop an annual outreach plan to meet with small business contractors that are interested in the MTA’s Mentoring Program. The plan consists of in-house events hosted by DDCR as well as external events to which DDCR is invited. DDCR collects business cards from small business contractor attendees at both types of events. DDCR told us that it does not use a sign-in sheet at any event. Following these events, DDCR invites, by email, new small business contractors to attend an information session on the Mentoring Program.

We found DDCR does not have a formal written program or process for its Mentoring Program outreach (also referred to as “Business Initiatives”).

Our review of available records determined that DDCR had insufficient support for three outreach methods:

- There was no documentation confirming DDCR attendance at 67 of 84 outreach events.
- For 29 of 142 new contractor contacts, there was no evidence of invitations sent for the Mentoring Program information session, and two contractor contacts lacked email addresses.
- Of 862 emails for companies on a list maintained by DDCR, 172 had no confirmation of receiving email invitations for the information session, and four companies had no email addresses.

The MTA operates in 14 counties (12 in New York and two in Connecticut): New York, Bronx, Queens, Kings, Richmond, Nassau, Suffolk, Westchester, Putnam, Dutchess, Orange,

Rockland; Fairfield, Conn.; and New Haven, Conn. However, DDCR conducted outreach events primarily in four counties: Kings, New York, Queens, and Westchester. We noted that DDCR also attended events in Albany. While DDCR does not conduct outreach in all MTA operating counties, the MTA has Mentoring Program construction projects that are planned or awarded in counties other than the four noted above. For instance, the list of planned small business program commitments includes Metro-North Railroad projects in Dutchess County and Long Island Rail Road projects in Nassau and Suffolk counties. However, the planned work in the other counties was not used in preparing the annual plan of events because the information was not shared with DDCR in advance.

In response to our preliminary findings, DDCR advised us that they report out at the MTA's quarterly diversity committee meeting. At the April 2024 meeting, DDCR reported that a total of 231 firms (210 in nine New York State counties and 21 in counties outside of the State) were actively enrolled in the program. We noted that eight of these firms were not prequalified, and five firms were not on the SBDP list of prequalified firms. When outreach activities and informational sessions are not widely advertised, small construction businesses may not be aware of the program. Thus, the program's overall goal of creating a large pool of diverse, qualified contractors that can compete for MTA projects may not be achieved.

Recommendation

7. Develop and formally document outreach (business initiatives) activities for the entire MTA region, including, but not limited to, preparation of the annual plan, attendance at events, measures of the activities, contacting prospective contractors, and follow-up efforts.

Bid List Review

According to the bid list procedures, SBDP is responsible for initiating the selection of prequalified firms eligible to bid for a project. The list of selected bidders and firm rankings is then forwarded to DDCR for its input on the selection of bidders. According to SBDP procedures, changes may be made to achieve certain diversity goals.

We asked DDCR officials to provide their approval records for a judgmental sample of 50 bid lists and related spreadsheets that we reviewed. However, DDCR did not provide support for 37 bid lists (74%). In addition, for seven of the 13 remaining bid lists, the records DDCR provided lacked evidence of its approval.

DDCR has an important role in ensuring the diversity of the firms selected to bid; however, it lacks documentation to support that this was achieved.

Recommendation

8. Ensure the bid lists of eligible bidders for contracts provided to and reviewed by DDCR are documented to support that they were properly vetted in an effort to achieve the appropriate participation rate for the program.

Audit Objectives, Scope, and Methodology

The objectives of our audit were to determine whether the MTA SBDP has a formal process for prequalifying contractors that apply for SBDP and for equitably selecting contractors to bid on the program's contracts. Additionally, we determined whether the MTA has an outreach program to grow the number of firms that join SBDP and provides support services to the contractors throughout the program. The audit covered the period from January 2018 to July 2025.

To accomplish our objectives and evaluate the relevant internal controls, we reviewed the MTA's (SBDP and DDCR) established guidelines and procedures, as well as applicable laws. We interviewed officials from SBDP, DDCR, TDX Construction, C&D Contracts, and other personnel to obtain an understanding of SBDP. In addition, we reviewed records for each of our samples and sent canvass letters to firms to obtain information.

We used a non-statistical sampling approach to provide conclusions on our audit objectives and to test internal controls and compliance. We selected judgmental and random samples. However, because we used a non-statistical sampling approach for our tests, we cannot project the results to the respective populations, even for our random samples. Our samples include:

- A random sample of 85 of 286 small business contractors from January 2018 to December 2023 to determine whether they completed their training courses.
- A random sample of 68 prequalification applications from a list of 582 applications for the period from January 2018 to December 2023 to determine whether they were prequalified to participate in SBDP based on application type as follows: 40 Mentoring Program Tier 1 applications, 11 Mentoring Program Tier 2 applications, seven Federal Program applications, and 10 Emerging Contractors Program applications.
- A random sample of 84 of 408 events from January 2018 to December 2023 to determine how many DDCR attended.
- A random sample of 29 of 142 new contractor contacts from January 2022 to July 2024 if emails were sent to the new contacts inviting them to an information session.
- A random sample of 172 of 862 firm contacts from January 2022 to July 2024 to determine if DDCR does outreach follow-up by email to invite companies to an information session.
- A total of 50 contracts valued at \$55.3 million from the 178 contracts awarded between January 201 and December 2023 in the three categories (Tier 1, Tier 2, and Federal Program) valued at \$168.5 million, selected both judgmentally (based on the number of contracts awarded to each business) and randomly.
 - A judgmental sample of 26 of 29 Transit contracts totaling \$21.6 million from these 50 contracts for additional testing to determine whether the firms were

treated equitably throughout the process of competing for and being awarded contracts.

We obtained a list of applicants, contracts, procurement, and class attendance from SBDP's system. We used this data to select our samples by interviewing officials knowledgeable about the system and tracing to and from source data and determined it was sufficiently reliable for the purposes of our audit objectives.

Statutory Requirements

Authority

This audit was performed pursuant to the State Comptroller's authority under Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State, including some duties on behalf of public authorities. For the MTA, these include reporting the MTA as a discrete component unit in the State's financial statements and approving selected contracts. These duties could be considered management functions for the purposes of evaluating organizational independence under generally accepted government auditing standards. In our professional judgment, these duties do not affect our ability to conduct this independent audit of the MTA's Small Business Development Program.

Reporting Requirements

We provided a draft copy of this report to MTA officials for their review and formal comment. Their comments were considered in preparing this final report and are included in their entirety at the end of it. In response to our draft report, the MTA stated that SBDP has successfully achieved its goals by creating opportunities for small businesses to grow and compete more effectively. However, the MTA disagreed with some of our audit findings and conclusions, asserting that management has the discretion to make decisions that may not comply with established procedures. In some cases, these decisions were not well documented. While we recognize the positive outcomes of the program, it is essential that decisions impacting the selection of businesses based on the bidder's list are thoroughly documented. Our responses to certain remarks are embedded in the MTA's response as State Comptroller's Comments.

Within 180 days after the final release of this report, as required by Section 170 of the Executive Law, the Chairman and Chief Executive Officer of the Metropolitan Transportation Authority shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees advising what steps were taken to implement the recommendations contained herein, and where the recommendations were not implemented, the reasons why.

MTA Response and State Comptroller's Comments

2 Broadway
New York, NY 10004
212 878-7000 Tel

Janno Lieber
Chairman and Chief Executive Officer



Metropolitan Transportation Authority
State of New York

July 8, 2026

VIA E-MAIL

Ms. Carmen Maldonado
Audit Director
The Office of the State Comptroller
Division of State Government Accountability
59 Maiden Lane, 21st Floor
New York, NY 10038

Re: Draft Report #2023-S-47 (Selected Aspects of the MTA - Small Business Development Program)

Dear Ms. Maldonado:

This is in reply to your letter requesting a response to the above-referenced draft report.

I have attached for your information the comments of Jamie Torres-Springer, President, MTA Construction & Development and Lourdes Zapata, MTA Chief Diversity Officer.

Sincerely,

A handwritten signature in blue ink, appearing to read "Janno Lieber".

Janno Lieber

c: Juliette Michaelson, MTA Chief of Staff
Monica Murray, Auditor General, MTA Audit Services



July 1, 2026

VIA ELECTRONIC MAIL

Mr. Janno Lieber
Chair and Chief Executive Officer
Metropolitan Transportation Authority 2
Broadway, 20th Floor
New York, New York 10004

Re: 30-Day Response to the Office of the New York State Comptroller Audit Report 2023-S-47 – Selected Aspects of the MTA Small Business Development Program

Dear Chair Lieber:

Thank you for providing MTA Construction & Development Company (“C&D”) and MTA Department of Diversity and Civil Rights (“DDCR”) with the opportunity to jointly respond to the Draft Audit Report (the “Report”) issued by the Office of the New York State Comptroller (“OSC”) regarding the MTA’s Small Business Development Program (“the Program”). As an initial matter, we wish to highlight the Program’s evolution and significant achievements.

The Program

Established in 2010 under State legislation (PAL § 1265-b), the Program was created to expand opportunities for small businesses. It has fulfilled this vision, awarding 722 small-business contracts totaling \$763 million as of May 2026. The Program also has been nationally recognized for its contributions to diversity and inclusion in both the construction and transportation industries. These numbers and honors underscore its significant economic impact and its reputation as an industry model for small-business mentorship.

Over time, the Program has grown to include multiple levels that enable businesses at different stages of growth to continue to build their capacity and compete more effectively:

- Tier 1 of the Small Business Mentoring Program (“SBMP”) provides both training and mentorship to businesses ready to bid on mid-sized projects, while Tier 2 offers Tier 1 graduates access to higher-value contracts. Recent legislative changes led to the award cap increasing from \$1 million to \$1.5 million for Tier 1 and from \$3 million to \$5 million for Tier 2, reflecting the Program’s successful evolution as well as the growth of its participants. In addition, the limit on how long a business could participate in each tier was extended from four to five years.
- As a subcomponent of Tier 1, the Emerging Contractor Program (“ECP”) provides support to

applicants who meet most but not all admission requirements.

- Finally, the Small Business Federal Program (“SBFP”) further extends opportunities for qualified participants, including federally certified Disadvantaged Business Enterprises (“DBEs”), to participate in federally funded transportation projects.

With that context in mind, we provide the following response to the Report’s findings.

MTA’S RESPONSE TO THE REPORT FINDINGS

MTA officials do not agree with many of the Report’s findings, which in several instances extended beyond an assessment of the Program’s compliance with its legislative and procedural requirements. In the few cases where OSC identified legitimate questions about administrative protocols, none affected the Program’s successful administration. In fact, several observations reflected staff having gone above and beyond to promote administrative efficiencies, or management having made thoughtful, mission-aligned decisions that avoided unnecessary bureaucratic delays. For a small number of findings, we agreed to implement the associated recommendation either in part or in full. For the remainder, the following response outlines the clarifications provided to OSC throughout the course of the audit.

MTA Construction & Development

Tier 1 Eligibility Requirements

Within the first finding, the Report includes a list of eligibility requirements for Tier 1 that is outdated and not fully accurate. For example, it states, “*Generally a small business applicant for Tier 1 must have been in business at least 3 years.*” However, both the historical and current eligibility requirement¹ is for an applicant to have been in business for at least one year.

State Comptroller’s Comment – The report states that “Generally, a small business applicant for Tier 1 must have been in business at least 3 years,” not that these are the requirements for the program. “Generally” means in most cases, but not always. The requirements for the checklist used to review applications calls for “financial statements for the immediate prior 3 calendar or fiscal years,” federal tax returns for the same period, and references for two projects valued at \$25,000 or higher, completed within the past 3 years for each trade code. As a result, generally, most applicants had at least 3 years of experience.

Application Log

The Report notes that previous Program administrators did not maintain a log that systemically numbered and counted applications received. This fact is not disputed; however, the maintenance of such a log has not ever been an administrative requirement.

Trade License

The Report claims that one applicant was prequalified without the requisite trade license; however, this contractor was never *fully* admitted into Tier 1. Rather, they were temporarily permitted

¹ Current eligibility requirements can be viewed at mta.info/doing-business-with-us/edge/tier-1

to partake in limited aspects of the ECP (i.e., coursework) while they worked to obtain their license. During this time, they were not invited to bid on any contracts². Furthermore, due to their not obtaining the license, their limited access was revoked (see screenshot below).

State Comptroller's Comment – The report states that the MTA allowed a vendor without a valid trade license to participate in the program without meeting the requirements. The supporting documentation the MTA provided in its response supports this finding.



Financial Dashboard

The Report notes that one applicant “...met all prequalification requirements except for providing 3 years of financial documentation; ultimately, the applicant was admitted...however, SBDP used only quarterly data for the final year of the analysis rather than the full 3 years, as required.”

During the time period of the audit, the Program administrator utilized a spreadsheet tool (a.k.a., “Financial Dashboard”) to evaluate up to three years of financial data provided by an applicant in order to gauge the applicant’s financial readiness for admission into Tier 1. Applicants that successfully passed the dashboard evaluation were deemed to have demonstrated strong financial standing, such that further evaluation to confirm their readiness was unnecessary. However, that does *not* mean that every applicant had to provide three full years of financial data. In reality, emerging contractors do not always have three years of business financial statements to provide. In such cases, the ECP offers a temporary 12-month pathway to build a more robust financial history before being formally considered for full admission into Tier 1.

Given that the ECP is limited to 12 months and an applicant only needs to be in business for one year, it is possible for an ECP participant to approach the 12-month mark and not yet have three full years of financial data for review. In such cases, management will review the applicant’s available financials in

² Per the *Bid List History Report*.

order to make an informed determination. Such was the case with the one applicant cited in the Report (i.e., their advancement was not erroneous).

Indeed, MTA leadership sees management’s commitment to supporting emerging contractors with this degree of individualized attention not as a risk for “...errors and unequal treatment,” but rather as a reflection of what makes this Program so notable within the industry at large. It exemplifies MTA’s dedication to developing emerging contractors in a manner that is flexible enough to take unique circumstances into thoughtful consideration.

State Comptroller’s Comment – Having a worthy intent does not negate the need to document decisions that are not in keeping with program requirements. In the absence of documentation for such exceptions, the agency cannot demonstrate that such deviations were appropriate, consistently applied, and appropriately overseen.

Statement of Personal Net Worth (SPNW) Forms

The Report notes nine SPNW forms were incomplete due to missing information. While technically correct, in this context, the MTA defines a complete form as one that contains the information necessary to make a reasonable determination and which has been signed and notarized. For example, as shown in the image below, there are two “Total Liabilities” fields. In cases where this information is entered once but not twice, we consider this sufficient.

MTA Metropolitan Transportation Authority		SMALL BUSINESS MENTORING PROGRAM-TIER 1	
STATEMENT OF PERSONAL NET WORTH			
As of _____, _____			
Complete this form for each owner of the firm seeking to qualify a firm for the Small Business Mentoring Program-Tier 1.			
Name:		Business Phone:	
Residence Address:		Residence Phone:	
City, State & Zip Code:			
Business Name of Applicant:			
ASSETS		LIABILITIES	
	(Omit Cents)		(Omit Cents)
Cash on hand & in Banks	\$	Accounts Payable	\$
Savings Accounts	\$	Notes Payable to Bank and Others	\$
IRA or Other Retirement Account	\$	(Describe in Section 2)	
(Describe in Section 5)		Installment Account (Auto)	
Accounts & Notes Receivable	\$	Mon. Payments \$	
(Describe in Section 5)		Installment Account (Other)	\$
Life Insurance-Cash Surrender Value Only	\$	Mon. Payments \$	
(Complete Section 8)		Loan on Life Insurance	\$
Stocks and Bonds	\$	Mortgages on Real Estate	\$
(Describe in Section 3)		(Describe in Section 4)	
Real Estate (exclude primary residence)	\$	Unpaid Taxes	\$
(Describe in Section 4)		(Describe in Section 6)	
Automobile-Present Value	\$	Other Liabilities	\$
(Describe in Section 5, and include Year/Make/Model)		(Describe in Section 7)	
Other Personal Property	\$	Total Liabilities	\$ 0.00
(Describe in Section 5)		Net Worth	\$ 0.00
Other Assets	\$	Total Liabilities	\$ 0.00
(Describe in Section 5)			
Total Assets	\$ 0.00		

Furthermore, with respect to the “...two applicants with final net worth missing,” both were appropriately enrolled into the ECP, which provides contractors with assistance in properly completing the financial components of their application, including the SPNW.

It is also worth noting that, per Public Authorities Law §1265-b³, the financial information the MTA is required to verify is the applicant’s annual business revenue, which is different than the business owner’s personal net worth. The MTA has been, and will continue to be, fully compliant with this legislative requirement.

State Comptroller’s Comment – The Business Unit’s procedures state that applicants must “Demonstrate each owner of the business has a personal net worth not exceeding \$3.5 million.” The finding is based on the lack of compliance with the agency’s procedures. It is therefore unclear what point the MTA is making, as these are its procedures.

Periodic Reviews

The Report notes that 10 of 68 sampled contractors did not have a “period review” (i.e., additional background check) performed; however, this does *not* constitute procedural non-compliance. During the time frame of the audit, background checks on a small business contractor were required under two specific circumstances: prior to being admitted to the Program, and prior to being advanced for a bid opportunity.

Per the relevant Program procedure⁴, additional reviews beyond these circumstances were authorized but discretionary and not bound by any specific cadence. Furthermore, out of the sample of 68, the audit identified no instances of a business having been either admitted to the Program or advanced to a bidding opportunity without first having undergone the procedurally required background checks which were performed within the required time periods.

Bid List Holds

This section of the Report states 17 of 50 sampled contracts contained errors or inconsistencies—an assessment C&D officials have strongly disputed since receiving the initial preliminary report. In response to Preliminary 4, C&D officials submitted a detailed written rebuttal addressing each preliminary finding, then met with the audit team to review that response, retrieve the supporting documentation under observation, and provide any additional clarification requested. C&D officials left that meeting with the understanding that sufficient information had been provided to resolve all associated findings. However, during the Exit Conference, we were advised that some findings remained unresolved because certain information was deemed insufficient. We strongly disagree with this conclusion.

State Comptroller’s Comment – On several occasions, we informed program management that OSC auditors need sufficient relevant evidence to support our audit findings. Additionally, auditors require access to personnel to gather information about processes and management

³ “c) “small business” means a business in the construction trades which...(ii) has annual revenues not exceeding a fiscal limitation of ten million dollars or such lesser amount as established by the authority”

⁴ 2.0 - Prequalification Procedure for Enrollment and Continuation of Enrollment in the Small Business Mentoring Program – Tier 1, section 3.0–Prequalification Reviews, subsection D.

actions. However, we were not always granted access to the necessary personnel, and the supporting documentation we received was often incomplete. In many cases, the documents intended to support responses were not provided to auditors during the fieldwork. Furthermore, even when additional information was provided in response to preliminary findings, it was often not relevant or sufficient, resulting in no changes to our conclusions. We also question why the supporting evidence was not provided earlier, especially in situations where it was shared only after auditors identified inaccuracies in the initial information. This issue was discussed with MTA officials during our meetings.

In relation to the following Report findings:

- *“Two spreadsheets each had one firm listed on the Bid List Hold report. The firm was selected as a bidder but not awarded a contract.*
- *One spreadsheet had a firm that was on the Bid List Hold report that was selected as a bidder and awarded a contract.”*

Preliminary 4 cited three Tier 2 spreadsheets as listing one firm (“Company A”) on the Bid List Hold report that was nevertheless selected as a bidder and awarded a contract. In response, C&D provided evidence⁵ showing Company A had submitted the documentation necessary to resolve their bid list hold before these three spreadsheets were developed. The same report cited one Tier 1 spreadsheet as listing a different firm (“Company B”) on the Bid List Hold report despite its selection as a bidder. We likewise provided evidence⁶ showing Company B had resolved its hold before the respective spreadsheet was developed. As such, it was not erroneous that these firms appeared on these spreadsheets without a hold; nor is it problematic that the one firm was awarded a contract. The apparent discrepancy resulted from the administrator completing these spreadsheets before updating the database that generates Bid List Hold reports. Nonetheless, the source documentation confirming the correctness of these determinations was provided.

In relation to the following Report finding:

- *“Two spreadsheets each had one firm (same firm) that was on the Bid List Hold report, but the firm was not listed on the spreadsheet to select bidders. Therefore, the Bid List Hold report and the spreadsheet were inconsistent.”*

In the same preliminary, OSC cited one Tier 1 firm and another Tier 2 firm (which were not the same) that were on the Bid List Hold report but not listed on the respective spreadsheets. For the Tier 1 firm, we provided evidence⁷ showing the firm was in the ECP and, prior to April 2022, ECP participants were listed on a separate spreadsheet. In turn, it was not erroneous that this firm was not listed on the Tier 1 spreadsheet. For the Tier 2 firm, we provided evidence⁸ showing the respective firm was, indeed, listed on the spreadsheet, ninth from the top of the list.

⁵ Response to Preliminary 4, Exhibit 9

⁶ Response to Preliminary 4, Exhibit 1B

⁷ Response to Prelim 4, Exhibit 2

⁸ Response to Prelim 4, Exhibit 10

State Comptroller's Comment – On several occasions, we informed program management that OSC auditors need sufficient relevant evidence to support our audit findings. Additionally, auditors require access to personnel to gather information about processes and management actions. However, we were not always granted access to the necessary personnel, and the supporting documentation we received was often incomplete. In many cases, the documents intended to support responses were not provided to auditors during the fieldwork. Furthermore, even when additional information was provided in response to preliminary findings, it was often not relevant or sufficient, resulting in no changes to our conclusions. We also question why the supporting evidence was not provided earlier, especially in situations where it was shared only after auditors identified inaccuracies in the initial information. This issue was discussed with MTA officials during our meetings.

In relation to the following Report finding:

- *“Twelve spreadsheets had one or more firms on the Bid List Hold report that should have been listed ‘on hold’ on the spreadsheet.”*

In all twelve cases, C&D officials disputed this conclusion and provided supporting documentation⁹ to clarify why. Essentially, the Program’s business process is to update selection data progressively on an as needed basis. Eligibility determinations occur first. Once a business is deemed ineligible, they are sorted out and the remainder of their selection data is not reviewed further. For example, it would not make sense to update a Tier 1 plumber’s bonding capacity when the project up for bid requires a Tier 2 electrician. Businesses that remain under consideration have their relevant data verified at each progressive stage so that the bidders proposed for each *Eligible Bidders List* are based on both *relevant* and accurate information. The final step of this workflow is bid-list-hold verification, which occurs for the final proposed eligible bidders. This is a practical, risk-based, time-efficient implementation methodology that ensures Program administrators are not wasting time updating data points that have no bearing on the outcome. As such, we disagree that what OSC observed constituted errors or inconsistencies.

State Comptroller's Comment – On several occasions, we informed program management that OSC auditors need sufficient relevant evidence to support our audit findings. Additionally, auditors require access to personnel to gather information about processes and management actions. However, we were not always granted access to the necessary personnel, and the supporting documentation we received was often incomplete. In many cases, the documents intended to support responses were not provided to auditors during the fieldwork. Furthermore, even when additional information was provided in response to preliminary findings, it was often not relevant or sufficient, resulting in no changes to our conclusions. We also question why the supporting evidence was not provided earlier, especially in situations where it was shared only after auditors identified inaccuracies in the initial information. This issue was discussed with MTA officials during our meetings.

Furthermore, the Report states, *“When SBDP allows a firm on a Bid List Hold the opportunity to bid and, at the same time, denies this opportunity to bid to another firm that is also on a Bid List Hold,*

⁹ Response to Prelim 4, Exhibits 3, 4, 5, 6A, 7, 8, 11 and 12

this is inconsistent.” We agree that this would be inconsistent, but do not agree that this is transpiring.

Bid List Holds – Second Check

The Reports asserts “...it is SBDP’s practice to have a second person review the bid list spreadsheet after it is prepared. However, there was no evidence the second checks were done.”

A second check of spreadsheets is not a procedural requirement; therefore, the absence of evidence that such action occurred cannot reasonably be considered a deficiency. This is particularly true given the lack of evidence that an associated vulnerability exists. Specifically, the audit identified no substantive instance of a small-business contract being bid on or awarded to a firm that should have been held back from bidding.

Bid List Criteria Review – Tier 2 and Federal Bonding

The Report states “...five of 18 contracts had firms incorrectly listed as not having sufficient bonding capacity. Consequently, these firms were excluded from further consideration.”

First, C&D officials note that 25 contracts were reviewed. Second, C&D officials disagree with the final conclusion. Since the firms being referenced spread across five total contracts, the table below provides the most efficient way to capture the details behind each.

State Comptroller’s Comment – We revised our report to reflect the number of contracts sampled.

Contract	Firm	MTA Response
1	1	This firm failed to provide a complete and up-to-date bonding renewal package. Evidence was provided in response to Prelim 8.
	2	Beyond the projects and bid lists noted on the audited spreadsheets, both of these firms were also eligible bidders on a Tier 2 project that reduced their bonding by an additional \$2M, so they had insufficient capacity to also bid on these contracts. Evidence was provided via email in February 2026.
2		
3		
4	4	This firm had been on a bid list hold for failing to provide required documentation for over a year. In September 2022, the firm submitted a backdated bonding letter from February 2022 that needed management’s review. The firm was correctly held back from bidding on these two contracts until management had the opportunity to review their paperwork and approve the release of their hold, which happened shortly thereafter.
5		

Bid List Criteria Review - Similar-Sized Past Project

This section of the Report states “...five of 10 Tier 1 spreadsheets and one Federal Program spreadsheet incorrectly listed contractors as not meeting the requirements for a similar- sized project. For example, the estimate on one Tier 1 spreadsheet was listed as less than \$150,000. This would indicate that all firms should be eligible; however, the determination for 84 firms (that were listed on the spreadsheet) was shown as ‘no.’”

OSC's conclusion is incomplete. One of the primary objectives of Tier 1 is to promote sustainable business growth by providing smaller firms with opportunities to compete for projects that are incrementally larger in size and value than those they have previously completed. This approach allows firms to build capacity and experience while competing against businesses with comparable qualifications, rather than against firms that have successfully delivered projects of substantially greater scale. At the same time, the Program seeks to ensure businesses are not encouraged to pursue projects that significantly exceed their demonstrated experience and capabilities, which could undermine their likelihood of success. This measured progression is particularly important given the limited number of bidding opportunities available to participating firms and is intended to support long-term growth and successful contract performance.

To ensure these objectives, Program administrators calculate a "multiplier value" to assist with evaluating this criterion. Specifically, each firm's highest past-project value is multiplied by an agreed upon multiplier (e.g., 150%). Once each multiplier value is calculated, Program administrators then take the following initial step: any firm whose multiplier value does not meet or exceed the lowest estimated value of the project up for bid is filtered out. For most project types, this narrows the playing field down to a handful of prospective bidders. In such cases, no further action is needed. However, if the field is not sufficiently narrowed, management may take an additional step, which is to filter out businesses whose actual past project values most exceed the highest estimated value of the project up for bid.

State Comptroller's Comment – The written "Procedure for Selection of Bidders for MTA Small Business Program Tier 1" does not include the steps described in the MTA's response to the draft report. In addition, we were not provided with documentation to support the decision stated in the response.

In essence, the process is designed to identify firms whose experience and capacity are appropriately aligned with the size and complexity of the project. Firms that do not meet the minimum qualifications are excluded, as are firms whose experience substantially exceeds the intended scope of the opportunity when necessary to preserve the developmental objectives of the Program. This approach promotes fair competition, supports incremental business growth, and remains consistent with the Program's statutory purpose and mission.

Bid List Criteria Review – The "Trade Qualified" Column

The Reports notes "*SBDP officials stated...the 'Trade Qualified' column is rarely used. However...we were informed that firms needed to be "Trade Qualified" for a trade relevant to the project, and a "NO" in this column would remove the firm from consideration.*"

However, the Report also acknowledges that the "Trade Qualified" column was properly reexplained in our preliminary response. To clarify, on *Bid List Criteria Spreadsheets*, the primary source of truth for whether a firm has a specific trade qualification is found in the specific column for each trade (see column headers "Concrete" through "Wood and Plastics" in screenshot below).

MTA SBMP - Tier 1															
	NYCT A-37727 1 Sub Str Stair: 23 St / BW7 (S1) (\$500,000 - \$750,000)	Concrete	Doors And Windows	Electrical	Finishes	General Contractor	Lead/Asbestos Abatement	Masonry	Mechanical/Plumbing	Site Work	Structural/Ornamentals	IMetals	Thermal/Moist Protection	Wood and Plastics	Trade Qualified
1						X									YES
2						X		X				x	x	YES	
3						X			X					YES	
4		X			x									YES	
5						X			X					YES	
6								X					x	YES	
7						X								YES	
116					x										NO
117								x							NO

When only one trade is being sought (e.g., electrical), the column associated with that trade is utilized. However, when a project allows multiple trades to be considered, the only effective way to ensure that all trade-qualified businesses sort to the top of the spreadsheet is to use a separate column that can capture this information. That column is titled “Trade Qualified” and exists strictly for use when multiple trades are being sourced.

Bid List Criteria Review – Equal Potential Bidders

The Report notes that one project had two potential bidders who were “...equal in all aspects of the hierarchy,” however, only one was advanced. In this instance (and as previously explained under “Similar-Sized Past Project”), one of these businesses had an actual past project value of \$3.3M, which was significantly greater than the highest estimated project value of \$1.5M.

The Procurement Process – Technical Qualification Hearings & The Release of Firms

C&D officials disagree with this section of the Report, which states “...there was no documentary evidence that this review [i.e., technical qualification hearing] was performed for all 26 firms we sampled.” In response to Preliminary 10, three different official signed records (*Recommendation for Award*, *Staff Summary*, and *Execution Checklist*) were provided for all 26 contracts, each of which confirmed that a technical qualification hearing was performed with each respective awardee and which included information such as the date when the hearing took place, the departments represented, the final determination, and the basis of that determination.

State Comptroller’s Comment – We were advised that the technical hearing is used to determine whether a contractor is qualified to perform the project work. Therefore, documentation to support the decision to proceed with the contractor should be prepared and retained.

In addition, this section states, “...SBDP did not promptly release firms from the bidder’s list once the contract was awarded.” First, SBDP officials reside outside of C&D Contracts, so this content appears to be misplaced. Second, this conclusion is not backed by substantive evidence *but rather by the MTA’s inability to disprove this claim without having to undertake measures that* extend well beyond the requirements of an auditee.¹⁰ The fact such efforts were not undertaken does *not* establish the validity of the OSC’s statement; rather, it speaks to the fact that, currently, there is no system functionality that can swiftly generate a report to evidence that each and every unsuccessful bidder from any given bid opportunity was not erroneously denoted as being on a bid list—for a bid that already transpired—on spreadsheets that were subsequently developed for projects for which the unsuccessful bidders were trade qualified.

State Comptroller’s Comment – Directing this comment to SBDP is appropriate because it was one of the reasons used for not placing a business on the bidder’s list for a contract. Consequently, procurement would not have received information about a contractor that was not placed on the bidder’s list.

Survey of Program Participants

This section of the Report cites the results of a canvas letter OSC sent to 161 firms associated with 50 audited small-business contracts. From that canvassing, the Report notes that 39 firms responded, 19 of which had recommendations to improve the procurement process.

Respectfully, MTA officials disagree with OSC’s decision to include uncorroborated anecdotes of a statistically non-representative sample, derived from independent canvassing, in a public audit report where the potential exists for that information to be interpreted as reliable and statistically valid, which it is not. Initially, our concern stemmed from lack of access to the source data. In response to that objection, OSC provided only 11 survey responses relevant to just one question. After reviewing that information, we determined it to have fundamental deficiencies. Specifically:

- That data indicated only 6.83% (11 of 161) of canvassed firms provided feedback. This is a statistically insignificant response rate and does not provide a sufficient basis for drawing generalized conclusions or identifying trends. Moreover, such a limited subset carries a high risk of bias, as the views are unlikely to be representative of the broader population.

State Comptroller’s Comment – SBDP statistics show that 178 contracts were awarded from January 2021 to December 2023. We selected 50 contracts awarded during this period. The numbers in response to the draft report are not comparable because it covers 14 years.

- The data was derived from firms awarded contracts as far back as 2021; in turn, the feedback could be irrelevant to the current Program and how it is being administered.
- The data lacked critical contextual information. For example, one response states, “*Not many job opportunities for small businesses.*” From MTA’s perspective, this is factually incorrect.

¹⁰ Specifically, the requisite data from all projects and tiers—including but not limited to the development date of each *Bid List Criteria Spreadsheet*, the contract award date, the awarded firm, the not-awarded firms (i.e., unsuccessful bidders), as well as the qualified trade(s) of each—would need to be gathered from multiple source locations, consolidated, and quality assured before it could be analyzed for this purpose. Once completed, additional time would be needed to investigate and reconcile any outliers (e.g., firms that changed tiers).

At a programmatic level, between 2010 and 2024, close to 700 contracts were awarded to small businesses, which is a significant quantity of opportunities. Without additional contextual data (e.g., the tier and trade of the respondent), it is not possible to analyze the data for noteworthy trends.

- Even though the Report states “*Ensure the firm's trade is compatible with the project they are invited to bid on,*” this did not appear on any of the provided responses.

Department of Diversity and Civil Rights

Training Program

This section of the Report references a *2021 Training Bulletin* that was provided to OSC in relation to the audit scope; however, portions of that material, such as the Program’s training requirements, are now outdated. For example, it referenced 18 courses, but the current requirement is completion of five core courses. As such, the bulletin has been removed from our website.

This section also states, “...DDCR officials stated they now intend on changing their position to allow a firm to start the program and be awarded a contract without completing any training.” This is incorrect. The current standard put in place by DDCR is that participants cannot be placed on an *Eligible Bidders List* until they complete all five required courses.

Finally, DDCR disagrees with the Report’s conclusion that “...seven firms (8%) did not complete any training courses, 39 firms (46%) completed some training courses (ranging from one to 17) ...and 29 (63%) [prequalified firms] did not complete their training within the required time frame.” What the audit revealed is that DDCR lacked sufficient historical records to evidence that these firms did, in fact, complete the required training in the required timeframes, which relates to records management rather than training compliance.

State Comptroller’s Comment – DDCR had no documentary evidence to support that these firms attended training. In the absence of such documentation, there is no assurance that these firms attended the training.

Outreach to Small Business Contractors

Regarding the Report’s observation that DDCR’s outreach events were limited in their geographical reach to four counties, we note that the MTA’s service territory spans approximately 5000 square miles and 14 counties in New York and Connecticut. Outreach events are not required to be conducted in every county; rather, they are geographically positioned to be accessible from various locations. Furthermore, despite limited staff, in 2025 and 2026, DDCR undertook outreach in four of five counties in NYC; Nassau and Suffolk counties on Long Island; as well as Westchester, Rockland, and Monroe County in Upstate New York. The success of these efforts is evidenced by the steady increase in the number of Program participants, which has required ongoing expansion of the Program and its administrative support. In turn, DDCR disagrees that the Program is at risk of not achieving the goal of increasing its pool of qualified contractors.

State Comptroller’s Comment – Our report did not state that outreach was required. However, we are pleased that the response states there is a new system to track attendance.

In addition, DDCR has updated its event-attendance tracking process and now uses a digital sign-in for event attendees via the use of a scannable bar code. This allows the attendee data to be automatically uploaded into our back-office tracking system, reducing the risk of data loss, illegible submissions, and misplaced documentation.

Finally, DDCR officials acknowledge that we were unable to provide documentation confirming staff attendance at various outreach events, despite knowing that staff participated in these engagements. To address this documentation gap, DDCR has implemented a centralized tracking system to capture all outreach events attended by staff, including the firms and stakeholders engaged during each event. This system strengthens recordkeeping, enhances oversight of outreach activities, and provides a comprehensive record of event participation and business engagements to support future reporting, program management, and audit requirements.

Bid List Review (DDCR Approval)

This section of the Report states, “*DDCR did not provide support for 37 bid lists (74%). In addition, for seven of the 13 remaining bid lists, the records DDCR provided lacked evidence of its approval.*” During the timeframe of the audit, DDCR’s bid-list approvals transpired via email by two individuals who no longer work for the MTA. As such, current DDCR personnel would not have been cc’d on those emails, nor would they have access to them. Rather, historical email records are retained by MTA IT and, with that Office’s support, 100% of the requested records— including 50 requests to DDCR for bid list review and 50 confirmations of DDCR approval—were retrieved and provided to OSC. While those records did not come directly from DDCR, they were nevertheless retained in accordance with the Authority’s record-retention standards and provided.

State Comptroller’s Comment – DDCR could not provide records throughout the audit. The departure of employees is not a reason for this condition. In fact, staff turnover is one reason decisions should be documented. In the absence of documentation, the basis for decisions is unavailable for review or oversight. Going forward, efforts should be made to prepare and retain documents to support DDCR activities.

Conclusion

We appreciate the rigor with which the OSC audit team conducted this audit of MTA’s Small Business Program. Over the course of two years, the team spent considerable time with stakeholders from both C&D and Headquarters engaging in interviews, work observations, and site visits that spanned hundreds of hours. The team also diligently reviewed just shy of 15,000 files, conservatively totaling up to 1.5 million auditable data points.

State Comptroller’s Comment – While the agency claims it has provided a significant number of files and data points to auditors, it is consistently unable to provide documentation supporting the decisions made in those files. Relevance, not volume, is the critical measure of appropriate supporting documentation.

Given the breadth and depth of work conducted, the outcome of this audit—particularly what it did *not* find—speaks volumes about the strength of the Program. Indeed, it strongly affirms the effectiveness of the Program’s processes and the care with which it has been, and will continue to be, administered.

That said, MTA remains committed to continuous improvement. On the recommendations with which we agree, swift corrective action will be taken. Indeed, in some instances, the recommended action is already implemented or well underway. For the recommendations where we disagree or only partially agree, our rationale is provided.

MTA'S RESPONSE TO THE REPORT RECOMMENDATIONS

OSC Recommendation No. 1:

Develop procedures to address:

- a) Actions taken by SBDP when information is missing from the SPNW.
- b) When a periodic review is needed and how it should be documented.

MTA Response:

MTA DDCR, which now administers prequalification¹¹, **disagrees** with this recommendation.

Regarding part "a)" and SPNWs:

As part of the Program's administrative norms, whenever an applicant's Statement of Personal Net Worth is received and critical information that cannot be readily ascertained from the other information provided is missing, a Program administrator will reach out, typically via a phone call, to obtain and/or clarify the information in question. We believe this action to be sufficient for our purposes and do not believe that adding additional layers to the process, and formally documenting those in a written procedure, would produce substantive value; in fact, it is more likely to result in administrative delays.

State Comptroller's Comment – Regardless of which MTA unit is currently responsible, documentation to support that program requirements are met is essential to proper program management.

Regarding part "b)" and periodic reviews (i.e., background checks):

There is no legal or procedural requirement—or *business need*—for any additional background checks to be completed beyond the stated requirements. Requiring an additional "periodic review", at any cadence, would be irresponsible in that it would introduce the risk of compromising the quality of the work that is already procedurally required and could lead to unjustified spending in an effort to comply with a requirement that fails to address a clear business need.

OSC Recommendation No. 2:

Implement a process, such as sequential numbering and a centralized log for all incoming applications, to ensure completeness and prevent applications from being lost.

MTA Response:

MTA DDCR, which now administers prequalification, **disagrees** with this recommendation. The vast

¹¹ As a point of clarification: during the term of the audit, prequalification activities fell under C&D with TDX Corporation as the contracted Program administrator. However, in 2025, the joint venture team of McKissick & McKissick and WSP was contracted to assume this responsibility under the supervision of DDCR.

majority of applications are now received digitally, which has effectively mitigated the risk of an application being lost. Once received, the digital application is automatically timestamped within the centralized system of record, creating a verifiable record of receipt. On the rare occasion when a paper application is received, Program administration will provide support to the applicant so that their information can be properly loaded into the digital system. That said, this centralized system does **not** have the functionality to sequentially number the applications received, nor do we believe that additional functionality is necessary, particularly given the fact that tracking this data is not required legally or procedurally.

OSC Recommendation No. 3:

Revise the procedures for the selection of bidders to include how the Bid List Hold process should be implemented, better clarify how bidders are selected and evaluated, and document the basis for how decisions are made to improve transparency and decrease the appearance of subjectivity.

MTA Response:

MTA DDCR, which now administers prequalification, **agrees** with this recommendation and notes that it is already partially implemented.

Re: “...how the Bid List Hold process should be implemented”

In December 2025 (post-Exit Conference), DDCR finalized a new “*MTA EDGE - Bid Hold List SOP*,” which addresses how the bid list hold process should be implemented.

Re: “...better clarify how bidders are selected and evaluated, and document the basis for how decisions are made”

Based on the preliminary audit responses, DDCR agrees to incorporate the following into its new *Standard Operating Procedure* to increase transparency around bid-selection decision making:

- i. A standard will be set for the selection of between 5 to 8 eligible bidders for each *Eligible Bidders List*; any deviation from this standard will have its rationale documented.
- ii. Whenever two firms on a *Bid List Criteria* spreadsheet appear identical in ranking criteria, and one is selected but the other is not, the rationale for that action will be documented.
- iii. Whenever a project is selected to be an “ECP” project, that will be clearly documented on the *Bid List Criteria* spreadsheet.

OSC Recommendation No. 4:

Develop clear and concise written procedures pertaining to the contract procurement process, including the retention requirements, for the SBDP.

MTA Response:

C&D Contracts **partially agrees** with this recommendation. Specifically, we agree to work on developing a written procedure pertaining to the contract procurement process for new bids and RFPs that will include content relevant to small-business contracts. However, we disagree that the procedure should cover record-retention requirements, as these are already captured within MTA’s Records Retention Policy.

OSC Recommendation No. 5:

Survey the small construction businesses in SBDP for their experience with the Program.

MTA Response:

MTA DDCR **acknowledges** this recommendation and notes that it has already been implemented. In April 2026, meetings were conducted with Program participants to solicit and record their feedback.

OSC Recommendation No. 6:

Develop written policies and procedures related to the training of firms in the Mentoring Program and for maintaining records of training materials that provide appropriate supporting documentation of attendance.

MTA Response:

MTA DDCR **agrees** with this recommendation and notes it is already partially implemented. In December 2025 (post-Exit Conference), DDCR published a new written *Standard Operating Procedure (SOP)* related to the training Program. It includes content related to training requirements; however, it does not include guidance on maintaining training records related to attendance. DDCR agrees to update the SOP to incorporate this additional content.

OSC Recommendation No. 7:

Develop and formally document outreach (business initiatives) activities for the entire MTA region, including, but not limited to, preparation of the annual plan, attendance at events, measures of the activities, contacting prospective contractors, and follow-up efforts.

MTA Response:

MTA DDCR **partially agrees** with this recommendation. Specifically, DDCR's MTA Edge and Business Development teams agree to develop a formal process to document EDGE-related outreach activities going forward, including attendance at outreach events and engagement with prospective contractors. However, DDCR continues to disagree that covering the entire MTA region requires holding events in every county, as this is not a requirement of the Program.

OSC Recommendation No. 8:

Ensure the bid lists of eligible bidders for contracts provided to and reviewed by DDCR are documented to support that it was properly vetted in an effort to achieve the appropriate participation rate for the Program.

MTA Response:

MTA DDCR **agrees** with this recommendation. We will implement a means of formally documenting our approval of *Eligible Bidders* and will maintain records of all approvals on file.

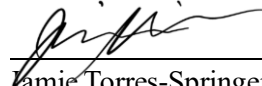
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Again, we appreciate the OSC audit team's hard work and dedication to this audit as well as

their consideration of this response as the final report is prepared. In the interim, should the team need any additional information or have any follow-up questions, they may reach out to the respective audit liaisons.



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