



January 23, 2008

**Department of Civil
Rights**
Michael S. Jordan
Director

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Council Member Scott Benson, Chair
Health, Energy and Environment
Development Committee
Room 307 City Hall
Minneapolis, MN 55415

Mayor T.R. Rybak
Mayor's Office
Room 331 City Hall
Minneapolis, MN 55415

Dear Chairperson Benson:

Enclosed is the Department's Final Report for 2007 on City-assisted construction projects. We are pleased to report that the overall affirmative action goals for skilled and unskilled people of color and women have been exceeded.

This report also presents an update on actions taken relative to the Contract Compliance Unit's report to this committee on October 22, 2007. We hope that you, and the other committee members, will agree that positive progress is being made.

The Department will continue its close observation of future projects, and other contracting opportunities, to ensure that the compliance status of the projects is maintained or improved with the objective of maximizing opportunities for women and people of color, in the areas of construction and purchase of goods and services.

Sincerely,

Michael S. Jordan
Director



MINNEAPOLIS DEPARTMENT OF CIVIL RIGHTS CONTRACT COMPLIANCE UNIT AND SMALL & UNDERUTILIZED BUSINESS PROGRAM REPORT

I. INTRODUCTION

The Minneapolis Department of Civil Rights, Contract Compliance Unit (MDCR-CCU) is charged with monitoring, investigating and adjudicating construction employment and training goals. This also includes the monitoring of prevailing wage payments and the approving of affirmative action plans. The CCU also performs a “brokerage” function as it assists prime contractors in successfully meeting their employment goals. The major actions in this function are to: (1) Link prime contractors to labor sources of persons of color and women; and, (2) Support the development and growth of persons of color and women-owned businesses so they may participate as sub-contractors.

The SUBP is charged with the following functions: (1) Setting project goals for small, women and minority businesses (S/W/MBE) in the awarding of City contracts – construction and development, provisions of goods and services and requests for proposals; (2) Reviewing bid and contract award recommendations; (3) Co-ordinating the certification process for S/W/MBE’s with other governmental authorities; and, (4) Assisting prime contractors with certified S/W/MBEs in order to meet the project goals.

II. GOAL ATTAINMENT BY PROJECT TYPE – ALL and \$1 MILLION or MORE

In 2007, the MDCR-CCU monitored fifty-five (55) City-assisted construction projects. Of those fifty-five (55) projects, nineteen (19) have a total dollar amount of \$1,000,000.00 or more.

Of the fifty-five (55) City-assisted construction projects monitored in 2007, the Small and Underutilized Business Program (SUBP) captured \$4,796,041 (4.23%) of Minority Business Enterprise (MBE) dollars, while the Women Business Enterprise (WBE) captured \$10,022,449 (8.84%) in dollars. Because (SUBP) goals are established on a project-by-project basis and by availability, there were four (4) out of the fifty-five (55) City-assisted construction projects that did not warrant (SUBP) goals.

The aggregate totals of women and persons of color participation from January 01, 2007 through December 31, 2007 are as follows:

Attainment by Project Type – (All Projects)		
ALL CITY CONSTRUCTION PROJECTS		
Total Contract Amount	\$113,381,230	
Overall Employment Participation Percentages:		
	Goals	Percentage of Participation
Minority Skilled	11%	14.87%
Minority Unskilled	11%	15.40%
Female	6%	10.20%
Small, Underutilized Business Program (SUBP) - Contracting	Percentage of Participation	Dollar amount of contracts
Minority Business Enterprise (92)	4.23%	\$4,796,041
Female Business Enterprise (123)	8.84%	\$10,022,449

Attainment by Project Type (\$1 million or more)		
ALL CITY CONSTRUCTION PROJECTS		
Total Contract Amount	\$102,882,771	
Overall Participation Percentages:		
	Goals	Percentage of Participation
Minority Skilled	11%	13.67%
Minority Unskilled	11%	13.95%
Female	6%	4.02%
Small, Underutilized Business Program (SUBP)	Percentage of Participation	Dollar amount of contracts
Minority Business Enterprise (39)	3.21%	\$3,304,662
Female Business Enterprise (52)	7.52%	\$7,740,995

In order to execute the recommendations for improvement that were presented to the City Council's Health, Energy and Environment Committee (HE&E) on October 22, 2007, the MDCR is taking the following actions:

III. DISPARITY STUDY

The Disparity Study, being conducted by the National Economic Research Associates (NERA), is underway. The completion of this study is expected by the end of 2008. This study will provide a qualitative and quantitative look at the City of Minneapolis marketplace as it relates to the availability and utilization of businesses owned by women and persons of color. It will also examine the process and programming as well as barriers to success.

IV. IMPROVED CO-ORDINATION WITH CITY DEPARTMENTS

1. Development of new process/procedures training program with CPED (Attachment I).
2. Development of process with Purchasing to closely monitor adherence to established bidding and RFP processes
3. Implement “liaison” program with city departments (Attachment II).
4. Suggest development of yearly “participation goals” for all city departments relative to goods and services contracts, with focus on professional services, legal services, catering and miscellaneous services.
5. Develop strategies to identify employment opportunities within city departments that can be offered to labor sources comprised by communities of color and/or women.

V. IMPROVED CO-ORDINATION WITH PRIME CONTRACTORS

1. Requirement for submission of physical copy of AA Plans and placement of electronic format on department website is in the process of being updated by March 28, 2008.
2. Descriptions of official process requirements and supporting forms are being established by March 28, 2008 in electronic format on the department website.
3. CCU management attended annual meeting of Associated General Contractors of Minnesota. Contact was made with this organizations leadership and planning meetings will be scheduled for the First Quarter of 2008.
4. Relationships established via monitoring efforts with Ball Park Authority (Mortensen) and Children’s Hospital (Knutson) will aid in creating additional operating relationships with other large general contractors.
5. Utilize leverage opportunities with CPED to develop new strategies for working with large general contractors.
6. Strictly enforce rules relating to compliance, and apply the stated remedies for non-compliance (as attached) whenever necessary. For example:
 - (a) No Letters of Agreements (LOA’s) have been issued since June of 2007.
 - (b) A general contractor reporting minority unskilled labor participation was required to verify protected class status of employees. Because

- (c) the contractor did not follow through with the verification process, the employees were removed from the reported results.
 - (d) A subcontractor that did not demonstrate that they were unable to meet the SUBP certification requirements was disqualified from contract participation.
 - (e) A business seeking city-funding was denied a city contract until such time they are able to comply with requirements to submit and have an approved affirmative action plan.
7. Development of initiatives to support General Contractors in executing their obligation related to “Good Faith” effort in utilizing skilled and un-skilled minority and female labor. For example:
- (a) Development of a partnership with several organizations engaged in the rehabilitation of ex-offenders (Attachment III).
 - (b) Initiation of discussions with representatives of the Building Trades (David Ybarra) and the Minneapolis Central Labor Council (William McCarthy) to develop strategies to increase the participation of minorities and women in union activity.
 - (c) Increase the level of interaction and cooperation with sources of minority and female laborers including Summit OIC, American Indian OIC, Association of Women Contractors and National Association of Minority Contractors (NAMC), Minneapolis Urban League LEAP, and Metropolitan Economic Development Association (MEDA).
 - (d) Increase the level of interaction and cooperation with educational institutions that could represent sources of minority and female labor including Hennepin County Technical College, Minneapolis Community and Technical College, Dunwoody Institute, Dunwoody Academy, Minneapolis Public Schools.
8. Developing and maintaining a cooperative relationship with agencies that are dedicated to economic development in communities of color such as the Northside Residents Redevelopment Council (NRRC) and the University of Minnesota Office of Business and Economic Development.

VI. CAPACITY BUILDING WITH W/MBEs

1. Initiating proactive strategies with local chapters of the National Association of Minority Contractors, Association of Women Contractors, and MEDA to address issues that confront the members.
2. Initiating partnership with MN-DOT (and perhaps other state agencies) and the St. Paul Planning and Economic Development Agency to provide training to W/MBEs in technical, business and legal subjects.

3. Pursue opportunities to leverage, and contribute to, the activities of the Minnesota Minority Supplier Development Council.
4. The results received from the NERA Disparity Study will provide information that will influence recommendations for action relative to the SUBP ordinance, which is planned to sunset on December 31, 2008.
5. Preliminary discussions have been initiated with selected lending institutions, relative to identifying ways to create funding sources for working capital and investment capital for W/MBEs.
6. Preliminary discussions have been initiated with selected general contractors, relative to identifying ways that they could aid W/MBEs in mitigating obstacles to success (e.g. payment terms, technical support, working capital funds).

VII. INTERNAL CAPACITY BUILDING

1. Addition of new staff members with experience in contract compliance management on large scale projects.
2. Initiation of BIS project to develop a new contract compliance unit data base. The increased technology will save time and effort for businesses and staff. The time saved will allow staff to take a more hands on approach to assisting compliance and physical verification. The project completion date is planned for April of 2008 at a cost of \$60,000.00.
3. Rules, regulations, process information, AA Plan formats and other pertinent information will be available electronically, via departmental website.

VIII. MINNESOTA TWINS BALLPARK

In October of 2007, the MDCR entered into an agreement with the Minnesota Ballpark Authority to monitor the results on the New Minnesota Twins Stadium. The agreement between the MDCR and Ballpark Authority is not to exceed \$25,000 per year. MDCR's sole responsibility during the duration of this project is to monitor employment and subcontracting results. MDCR is in the process of developing a verification protocol with M. A. Mortenson and the Ballpark Authority. It will be in place by the third week of February. At that time, MDCR would have delivered its first of monthly reports to the Ballpark Authority.

Based on the information presented by M.A. Mortenson through November of 2007, the results are as follows:

MINNESOTA BALL PARK PROJECT		
Overall Participation Percentages:		
	Goals	Percentage of Participation
Minority Skilled/Unskilled	25%	13.21%
Female	5%	7.77%
Small, Underutilized Business Program (SUBP)	Percentage of Participation	Dollar amount of contracts
Minority Business Enterprise	10%	10.5%
Small Business Enterprise	8%	8.5%
Female Business Enterprise	12%	12.3%

According to Mortenson's Project Manager, the current phase, which is heavily equipment-oriented, does not have a large pool of persons of color to choose from. In a follow up conversation with a representative from Local 49 - Operators/Engineers, it was explained that numerous persons of color and women are in Local 49, but their availability depends on skill type. It was verified that Mortenson, the week of 01/21/2008, hired an operator of color onto the Ballpark Project. Mortenson continues to commit to improving their minority participation this Spring by adding trades such as carpenters and laborers to the project.

ATTACHMENT I

Process for the Establishment and Monitoring of SUBP Goals, Affirmative-Action and Prevailing-Wage Requirements for City of Minneapolis Development Projects

This chart outlines the process to establish, document and monitor compliance with Small and Underutilized Business Participation (SUBP) goals, affirmative-action and prevailing-wage requirements that may apply to development projects for which the Department of Community Planning and Economic Development of the City of Minneapolis issues a request for proposals. It also identifies the department or party responsible for each step in the process.

<p>Step 1: The Community Planning and Economic Development Department (CPED) drafts a request for proposals (RFP). The RFP includes the City's standard contracting requirements – including SUBP, affirmative-action and prevailing-wage language – and a copy of the Request for SUBP Goals form, with instructions for its completion. The RFP also includes an application form with a sign-off page specifically certifying that the applicant will comply with the City's contracting requirements, as outlined in the RFP.</p>
<p>Step 2: CPED publishes the RFP and determines whether to hold a public pre-proposal meeting to allow potential respondents to ask questions. If there is a pre-proposal meeting, CPED invites CR staff to participate.</p>
<p>Step 3: Applicants review the contracting requirements outlined in the RFP, complete the Request for SUBP Goals form, sign the compliance-certification page of the application, and submit completed proposals to CPED.</p>
<p>Step 4: CPED reviews the proposals and prepares a recommendation for the selection or ranking of the proposals.</p>
<p>Step 5: CPED presents the staff report outlining its recommendations to the appropriate City Council committee(s).</p>
<p>Step 6: The appropriate City Council committee(s) and the full City Council decide which proposal(s) to accept and authorize CPED staff to draft the appropriate redevelopment contract(s) or loan agreement(s).</p>
<p>Step 7: CPED forwards the relevant portions of the approved proposal(s) to CR, with completed Request for SUBP Goals and Request for Affirmative Action Approval / Notification of Pending Project forms.</p>
<p>Step 8: CR assigns SUBP goals and identifies other affirmative-action and prevailing-wage requirements for the approved proposal(s), and submits these goals and requirements in writing to the developer(s) with instructions for reporting their compliance efforts and results to CR. CR also sends a copy of these goals and requirements to the CPED Project Coordinator and to the assigned Assistant City Attorney.</p>
<p>Step 9: The Assistant City Attorney drafts the appropriate City redevelopment contract(s) or loan agreement(s) and forwards them to the CPED Project Coordinator for review</p>
<p>Step 10: The CPED Project Coordinator reviews the draft(s) and provides comments to the Assistant City Attorney, who revises the contract(s) or agreement(s) and forwards final versions to the CPED Project Coordinator (including the SUBP goals and affirmative-action and prevailing-wage requirements as an attachment).</p>
<p>Step 11: The CPED Project Coordinator facilitates signing of the redevelopment contract(s) or</p>

loan agreement(s) by all parties, and provides copies of signed contract(s) or agreement(s) to CR, if requested or required.	
<p>Step 12: CPED convenes a pre-bid meeting with the developer, general contractor (if known) and CR to review employment goals and prevailing-wage and monitoring requirements for the project, as outlined in the contract or agreement. CR provides written documentation clarifying definitions and requirements for the project. CPED provides written documentation clarifying bidding requirements, apprenticeship program requirements and other issues.</p> <p><i>(NOTE: This step can be accomplished via email, rather than a face-to-face meeting, at the discretion of CPED.)</i></p>	
<p>Step 13: The developer conducts competitive bidding process and communicates results of bidding and attainment of goals (or good-faith efforts to attain goals) directly to CR, according to written requirements provided in Step 12.</p>	
<p>Step 14: CR communicates directly with developer regarding any follow-up questions or compliance issues.</p>	
<p>Step 15: CR signs off on the Affirmative Action Approval / Notification of Pending Project form and provides CPED and the developer with written approval to proceed with closing and construction start.</p>	
<p>Step 16: At its discretion, CR convenes a pre-construction meeting with the developer and contractor(s). CR notifies the CPED Project Coordinator if a pre-construction meeting is scheduled.</p>	
<p>Step 17: The CPED Project Coordinator notifies CR of closing and construction start date, and provides CR with copies of final construction contract and sworn construction statement.</p>	
<p>Step 18: CR requests monthly reports of contractors' efforts to comply with employment goals and prevailing-wage requirements, as included in (or attached to) the contract or agreement.</p>	
<p>Step 19: Contractors provide CR with monthly reports of their efforts to comply with employment goals and prevailing-wage requirements, as included in (or attached to) the contract or agreement.</p>	
<p>Step 20: CR reviews monthly reports of contractor's efforts to comply with employment goals and prevailing-wage requirements, as included in (or attached to) the contract or agreement, and determines whether contractor is in compliance with established goals and requirements.</p>	
<i>Track A: Contractor In Compliance</i>	<i>Track B: Contractor Out of Compliance</i>
<p>Step 21a: CR submits compliance status report informing the CPED Project Coordinator and the developer that the contractor is in compliance with established goals and requirements.</p>	<p>Step 21b: CR submits compliance status report informing the CPED Project Coordinator and the developer that the contractor is out of compliance with established goals and requirements. CR contacts the developer directly to discuss the specific actions needed to resolve compliance issue(s).</p>
<p>Step 22a: CPED processes development agreement payments or loan agreement disbursements, based on the CR compliance status report.</p>	<p>Step 22b: CPED withholds development agreement payments or loan agreement disbursements, based on CR compliance status report.</p>
	<p>Step 23b: CR negotiates resolution of compliance issue(s) with the developer and/or</p>

(Steps 19-22a repeat as long as contractor

<i>remains in compliance with established goals and requirements.)</i>	contractor.
	Step 24b: Contractor completes resolution of compliance issue(s) and informs CR of completion. <i>(Go to Step 21a.)</i>

ATTACHMENT II



CITY OF MINNEAPOLIS
DEPARTMENT OF CIVIL RIGHTS
Memorandum

To:

Patrick P. Born; Steven Bosacker; Mike D. Christenson; James S Clack;
John Dejung; Sara L. Dietrich; Tim Dolan; Rocco S. Forte; Pamela G.
French; Jay M. Heffern; Jeffery L. Johnson,-MCC; Steven A Kotke;
Musicant, Gretchen G Musicant; Gene J. Ranieri; Steven J. Ristuben; Tina
F Smith.; Patrick J. Todd; Lynn C. Willenbring.

From:

Michael S. Jordan
Director of Civil Rights

Date:

January 14, 2008

Subject:

Contract Compliance Liaison

A primary mission of the Civil Rights Department is to uphold the legal requirements of contract compliance, as defined by city ordinance, in a manner that is easy to follow, efficient and effective. To that point, I am asking for your assistance in improving contract compliance activity.

My request is two fold. First, I would like to request that each department assign a "liaison" to enhance the transfer of information between your department and mine, in relation to contract purchases. Second, we would like to work with each department liaison in order to establish a "process" of how contracts for goods and services, that fall outside of the normal Purchasing or CPED functions, are handled. Staffs from Civil Rights, CPED and Purchasing have recently worked together to establish a contract compliance process that is more seamless and definitive. We would like to extend this methodology to all of the other City departments.

We feel that a concise and agreed upon process will best serve all of our needs. We also want to develop a fuller understanding of the functions and needs of your departments. In order to: (1) enhance the sharing of information; (2) make the process familiar to all; and (3) ensure its consistent application, we will utilize department liaisons.

I would like to schedule a meeting of Department Liaisons on Friday, February 1, at 10:00 a.m. in room 241 of City Hall. At that time, we will provide information on the contract compliance process and discuss plans for the coming year. We will also use this opportunity to provide general knowledge, relating to certified vendors and the products and/or services they may be able to provide.

Please let us know the name of the person that will attend. If you have questions, concerns or need additional information, please do not hesitate to contact me at 673-3027 or by e-mail. Marvin Taylor will take the lead in ensuring that this initiative meets the needs of all involved. We look forward to a productive partnership in 2008.

ATTACHMENT III



**Department of Civil
Rights**
Michael S. Jordan
Director

December 18, 2007

350 South 5th Street - Room
239
Minneapolis MN 55415-1314

Office 612 673-3012
Fax 612 673-2599
TTY 612 673-2157

Dear Mr. Cole,

I am writing to follow up on the individual meetings that we had earlier this year. I want to re-affirm my support in working with you, and your organization, in aiding the re-entry of the population of ex-offenders into the society.

I am in strong agreement with the concept that providing viable employment opportunities for ex-offenders is a critical factor in their successful re-entry to society. Further, it seems to me, that the construction industry should present an "ex-offender friendly" environment.

To that point, I would like to invite you, and the following list, to a meeting. The purpose of this meeting would be to discuss, with members of the Department's Contract Compliance Unit, the plan to utilize the participants of your programs as a source of "unskilled" labor on the construction contacts that we monitor. Additionally, we could discuss ideas of how we can work together to develop transition paths from "unskilled" to "skilled" labor status.

The current list is as follows:

- Dan Cain, RS Eden
- Richard Gardell, 180 Degrees
- Von Sheppard, Twin Cities Rise

Please feel free to invite any others who you think contribute to the discussion.

I would like to hold the meeting in mid-January. Please call Monica Diaz, at (612)673-3012, with a list of dates and times that would fit your

schedule. We will hold the meeting at the Civil Rights Department's Martin Luther King Conference Room, located at City Hall.

I am looking forward to meeting with you all. I really believe that this effort will yield positive results on many fronts; such as creating better lives for ex-offenders, reducing recidivism, reducing crime levels, and strengthening the foundation necessary for their families.

Please let me know if you have any questions and/or concerns.

Sincerely,

Michael S. Jordan
Director

Cc: Mayor R.T. Rybak
Council President Barbara Johnson
Council Member Scott Benson
Marvin Taylor, Director of Enforcement and Compliance
James Patterson, Manager of Contract Compliance
Mike Christianson, Director of CPED